



**CITY OF BUFFALO**  
**DEPARTMENT OF LAW**

**EXHIBIT**

**G**

ORIGINAL

1

VIDEO DEPOSITION  
JENNY VELEZ

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

-----  
JAMES C. KISTNER,

Plaintiff,

- vs - Civil Action No.  
18-cv-402

THE CITY OF BUFFALO,  
c/o Corporation Counsel,  
BYRON LOCKWOOD, individually and in  
his capacity as Police Commissioner  
of the Buffalo Police Department,  
DANIEL DERENDA, individually and in his  
capacity as Police Commissioner of the  
Buffalo Police Department,  
LAUREN McDERMOTT, individually and  
in her capacity as a Buffalo Police Officer,  
JENNY VELEZ, individually and in her  
capacity as a Buffalo Police Officer,  
KARL SCHULZ, individually and in his  
capacity as a Buffalo Police Officer,  
KYLE MORIARTY, individually and in his  
capacity as a Buffalo Police Officer,  
DAVID T. SANTANA, individually and in his  
capacity as a Buffalo Police Officer,  
JOHN DOE(S), individually and in his/their  
capacity as a Buffalo Police Officer(s),

Defendants.  
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DEPARTMENT OF LAW

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Buffalo, New York 14202 - (716) 853-5600

MAR 13 2020

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1 Video deposition of JENNY VELEZ,  
2 Defendant, taken pursuant to the Federal Rules of  
3 Civil Procedure, in the offices of JACK W. HUNT &  
4 ASSOCIATES, INC., 1120 Liberty Building, Buffalo,  
5 New York, on February 26, 2020, commencing at  
6 10:11 a.m., before LYNNE E. DiMARCO, Notary Public.

7  
8 APPEARANCES: RUPP BAASE  
PFALZGRAF & CUNNINGHAM, LLC,  
9 By CHAD DAVENPORT, ESQ.,  
10 1600 Liberty Building,  
Buffalo, New York 14202,  
(716) 854-3400,  
11 davenport@ruppbaase.com,  
Appearing for the Plaintiff.

12  
13 TIMOTHY A. BALL, ESQ.,  
Corporation Counsel,  
14 By MAEVE E. HUGGINS, ESQ.,  
Assistant Corporation Counsel,  
1137 City Hall,  
15 Buffalo, New York 14202,  
(716) 851-4334,  
16 mhuggins@city-buffalo.com,  
Appearing for the Defendants.

17  
18 PRESENT: JAMES KISTNER  
LAUREN McDERMOTT  
19  
20 PATRICK F. MORRIS, Videographer

10:02:14

10:11:41 22

10:11:47 23

21  
22 MR. DAVENPORT: Chad Davenport here on  
23 behalf of the plaintiff Jim Kistner.

10:11:49 1 MS. HUGGINS: Maeve Huggins on behalf of the  
10:11:49 2 defendants.

10:11:49 3  
10:12:01 4 J E N N Y V E L E Z, 693 East Ferry Street,  
10:12:05 5 Buffalo, New York 14211, after being duly called  
10:12:07 6 and sworn, testified as follows:

10:12:07 7  
10:12:07 8 EXAMINATION BY MR. DAVENPORT:

10:12:07 9  
10:12:09 10 Q. Good morning, Ms. Velez.

10:12:12 11 A. Good morning.

10:12:13 12 Q. My name is Chad Davenport. I'm with  
10:12:13 13 the law firm Rupp Baase Pfalzgraf Cunningham and we  
10:12:15 14 represent the plaintiff Jim Kistner.

10:12:17 15 So we are here today to talk about events  
10:12:19 16 that transpired on January 1st of 2017. Before we  
10:12:24 17 start, have you ever given sworn testimony before?

10:12:26 18 A. Yes, I have.

10:12:27 19 Q. And was that in a civil matter or was  
10:12:31 20 that in a criminal matter?

10:12:32 21 A. Criminal.

10:12:33 22 Q. Okay. Have you ever given sworn  
10:12:35 23 testimony in front of -- in a civil matter before?

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10:12:37 1 A. No, I have not.

10:12:38 2 Q. Okay. So it's the same thing, your  
10:12:40 3 testimony is under oath today. And do you  
10:12:44 4 recognize that your testimony is sworn under oath  
10:12:47 5 today?

10:12:47 6 A. Yes.

10:12:47 7 Q. Okay. So our discussion today is being  
10:12:51 8 transcribed -- transcribed by a stenographer. In  
10:12:54 9 order to have an accurate transcript I just ask  
10:12:57 10 that you wait until I finish my question before you  
10:13:01 11 answer. And I will wait until you finish your  
10:13:03 12 answer before I ask my next question.

10:13:07 13 In addition, I just ask that you give verbal  
10:13:10 14 answers to each of the question that's -- each of  
10:13:12 15 the questions that is asked, noddings of the head  
10:13:14 16 or shaking your head, uh-huh, uh-uh won't be able  
10:13:19 17 to be tran -- transcribed on the record. So we  
10:13:22 18 just want to make sure that we have an accurate  
10:13:25 19 record.

10:13:25 20 If at any time you do not understand a  
10:13:28 21 question, you can simply ask me to rephrase the  
10:13:32 22 question and I can rephrase it for you, but I do  
10:13:35 23 ask that if you understand the question to please

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10:13:38 1 answer it to the best of your ability. Can you do  
10:13:41 2 that for me?

10:13:41 3 A. Yes.

10:13:41 4 Q. And if at any time you need a break,  
10:13:41 5 just ask me and we can absolutely stop and take a  
10:13:44 6 break for as long as you need.

10:13:45 7 A. Okay. Thank you.

10:13:46 8 MS. HUGGINS: Before we get started, we'll  
10:13:49 9 read and sign and I would request 45 days to do so.

10:13:51 10 MR. DAVENPORT: And that's fine.

10:13:52 11 MS. HUGGINS: Thank you.

10:13:55 12 BY MR. DAVENPORT:

10:13:56 13 Q. Do you have any military service?

10:13:58 14 A. No.

10:13:59 15 Q. Okay. Have you ever been charged or  
10:14:02 16 convicted with a crime?

10:14:03 17 A. No.

10:14:04 18 Q. What is your highest level of  
10:14:07 19 education?

10:14:07 20 A. I have some graduate level.

10:14:09 21 Q. Okay. And what did you go to graduate  
10:14:14 22 school for?

10:14:14 23 A. Adult education.

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10:14:16 1 Q. Okay. And where did you go to graduate  
10:14:18 2 school?

10:14:18 3 A. Buffalo State College.

10:14:20 4 Q. Did you go to undergrad as well?

10:14:22 5 A. Yes.

10:14:23 6 Q. And what did you go for undergrad?

10:14:25 7 A. Criminal justice.

10:14:27 8 Q. And was that a four-year degree?

10:14:28 9 A. Yes, I did two years at ECC, got an  
10:14:31 10 associate's in criminal justice, followed up at  
10:14:32 11 Buff State, got a BS in criminal justice. And then  
10:14:34 12 I continued on graduate school, but didn't complete  
10:14:37 13 it.

10:14:37 14 Q. Okay. Did you go to high school?

10:14:40 15 A. I did.

10:14:41 16 Q. And where did you go to high school?

10:14:42 17 A. Hutchinson Central Technical High  
10:14:46 18 School.

10:14:46 19 Q. Okay. So we discussed a little bit  
10:14:54 20 about your background in terms of education. When  
10:14:57 21 did you join the Buffalo Police Academy?

10:15:00 22 A. January of 2013.

10:15:02 23 Q. Okay. And did you start right away

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10:15:06 1 with the Buffalo Police Department or did you have  
10:15:08 2 to go to training before you started with the  
10:15:12 3 Buffalo Police Department?

10:15:13 4 A. I had to attend the police academy.

10:15:16 5 Q. Okay. And was that in 2013?

10:15:20 6 A. January, yes.

10:15:20 7 Q. January 2013.

10:15:20 8 A. January 2013.

10:15:20 9 Q. Okay. And then when did you start with  
10:15:22 10 the Buffalo Police Department?

10:15:23 11 A. I started my field training in June of  
10:15:26 12 2013.

10:15:26 13 Q. Okay.

10:15:27 14 A. June 7th, I believe. I'm not certain  
10:15:30 15 on the exact date, but I believe it was June 7th.

10:15:32 16 Q. Okay. When you started your initial  
10:15:34 17 training, did you have a plan to go to the City of  
10:15:36 18 Buffalo Police Department?

10:15:37 19 A. Yes, I was hired by the City of Buffalo  
10:15:40 20 and then placed into the police academy.

10:15:43 21 Q. Okay. And that was your plan before  
10:15:45 22 you entered the ECC training beforehand?

10:15:48 23 A. Yes.

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10:15:48 1 Q. Okay. Did you have a plan of what  
10:15:50 2 district you wanted to work in at the time?

10:15:52 3 A. No.

10:15:52 4 Q. Okay. Did you start in -- well, what  
10:15:56 5 district did you start in?

10:15:57 6 A. C.

10:15:58 7 Q. C District. And then how long were you  
10:16:00 8 there for?

10:16:01 9 A. I've been in C the entirety of my  
10:16:04 10 career.

10:16:04 11 Q. Okay. So that's from 2013 to 2020?

10:16:07 12 A. Correct.

10:16:07 13 Q. Any gaps in between?

10:16:09 14 A. I was assigned to A District as a  
10:16:12 15 detective for a couple weeks, but I never actually  
10:16:14 16 went into the district. So by the time I was back  
10:16:15 17 to work I was in Charlie. I was transferred back  
10:16:19 18 to Charlie.

10:16:20 19 Q. Okay. Did you have any sort of  
10:16:21 20 training, field training, before you were off on  
10:16:24 21 your own as a police officer?

10:16:26 22 A. Yes.

10:16:26 23 Q. And that was after you completed

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10:16:28 1 training with the Buffalo Police Academy?

10:16:30 2 A. Yes.

10:16:31 3 Q. Okay. And how long was that field  
10:16:32 4 training for?

10:16:33 5 A. I believe it's 16 weeks.

10:16:35 6 Q. Okay. Who did you primarily go with  
10:16:39 7 for your field training?

10:16:40 8 A. I was assigned to at the time Officer  
10:16:44 9 Darrel Williams.

10:16:44 10 Q. Okay. And was that for the entirety of  
10:16:46 11 the 16 weeks?

10:16:46 12 A. Yes, occasionally when he was off of  
10:16:49 13 work, I would be assigned to another officer, but I  
10:16:53 14 was primarily with him for the majority of the  
10:16:54 15 time.

10:16:54 16 Q. Okay. Approximately how many hours  
10:16:56 17 were you working during those 16 weeks?

10:17:00 18 A. I'm 40 hours a week at 10 hours a day.

10:17:03 19 Q. Okay. So that would have been four  
10:17:05 20 shifts a week then?

10:17:06 21 A. Correct.

10:17:07 22 Q. Okay.

10:17:07 23 MS. HUGGINS: Just slow down, wait for --

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10:17:11 1 THE WITNESS: Oh, I'm sorry.

10:17:13 2 BY MR. DAVENPORT:

10:17:13 3 Q. Where -- what shift did you  
10:17:18 4 predominantly work during those 16 weeks?

10:17:21 5 A. 6:00 a.m. to 1600 hours or 4 p.m.

10:17:26 6 Q. Okay. And did you maintain that  
10:17:28 7 schedule after your 16 weeks?

10:17:29 8 A. No.

10:17:30 9 Q. What did you switch to?

10:17:31 10 A. I was switched to MP5 overnights.

10:17:34 11 Q. Okay. And then how long did you work  
10:17:36 12 overnights for?

10:17:39 13 A. I was overnights for -- I don't recall,  
10:17:44 14 because we were assigned for a short amount of time  
10:17:47 15 and then there was a manpower change and I was put  
10:17:50 16 on afternoons. Possibly six months. I'm not  
10:17:57 17 certain.

10:17:57 18 Q. Okay. No, that's okay.

10:17:59 19 A. Maybe longer.

10:17:59 20 Q. And then you were saying that you were  
10:18:03 21 switched to afternoons after the night shift?

10:18:05 22 A. Yes.

10:18:05 23 Q. Okay. And how long did you work

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10:18:06 1 afternoon shifts for?

10:18:07 2 A. I know I went to days in January of  
10:18:10 3 2015, so maybe another six months to a year on  
10:18:14 4 afternoons.

10:18:14 5 Q. Okay. And did you work the day shift  
10:18:17 6 from 2015 forward?

10:18:19 7 A. Yes.

10:18:19 8 Q. And you were --

10:18:20 9 A. Oh, excuse me. I was -- when I was  
10:18:21 10 promoted to detective, my shift changed. And then  
10:18:25 11 when I was promoted to lieutenant, my  
10:18:27 12 shift -- shifts changed as well.

10:18:28 13 Q. Okay. When approximately were you  
10:18:32 14 promoted detective?

10:18:33 15 A. November of 2017.

10:18:35 16 Q. Okay. And when were you promoted to  
10:18:40 17 lieutenant?

10:18:40 18 A. July of 2018.

10:18:42 19 Q. Were you working as a detective up  
10:18:46 20 until the point that you were promoted to  
10:18:48 21 lieutenant?

10:18:48 22 A. Yes.

10:18:50 23 Q. Okay. And so, I'm sorry, what shifts

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10:18:54 1 were you working for as you were a detective?

10:18:57 2 A. Yes.

10:18:57 3 Q. And that was with the A District?

10:18:59 4 A. I was assigned to A, but I didn't

10:19:03 5 actually go in and physically work in there. I was

10:19:05 6 bark in Charlie.

10:19:07 7 Q. Okay.

10:19:08 8 A. Within a couple of weeks.

10:19:09 9 Q. Okay. Okay. So you worked as a

10:19:09 10 detective with the C District as well then?

10:19:09 11 A. Yes.

10:19:10 12 Q. Okay. And what shift were you working

10:19:13 13 as a detective?

10:19:14 14 A. Initially I was afternoons.

10:19:16 15 Q. Okay.

10:19:16 16 A. And then within a few months I was on

10:19:19 17 days.

10:19:19 18 Q. Okay. As a lieutenant, what shifts do

10:19:24 19 you currently work?

10:19:24 20 A. 6 to 4.

10:19:26 21 Q. 6 to 4. Did you ever work the

10:19:28 22 afternoon shifts as a lieutenant?

10:19:29 23 A. Yes.

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10:19:29 1 Q. Okay. And how long approximately did  
10:19:32 2 you work the afternoon shift for?

10:19:40 3 A. About six months, I believe.

10:19:44 4 Q. So that now correct me if I'm wrong,  
10:19:47 5 that would have put you in early of 2019 when you  
10:19:51 6 started to work the day shift as a lieutenant?

10:19:56 7 A. I've changed around so much, let  
10:19:59 8 me just --

10:19:59 9 Q. Sure.

10:20:00 10 A. Let me think about it a little bit. I  
10:20:06 11 was promoted in July, I was on afternoons, yeah. I  
10:20:14 12 would say early, early 2019.

10:20:16 13 Q. Okay.

10:20:16 14 A. I was on days.

10:20:17 15 Q. Okay. So I'm going to show you what  
10:20:22 16 has been marked as Exhibit 16. I'm sorry. I don't  
10:20:29 17 have an extra copy.

10:20:30 18 MS. HUGGINS: I have one.

10:20:32 19 BY MR. DAVENPORT:

10:20:33 20 Q. So do you recognize this document?

10:20:34 21 A. Yes.

10:20:35 22 Q. Okay. And what do you recognize that  
10:20:37 23 to be?

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10:20:37 1 A. A shift summary report.

10:20:39 2 Q. Okay. Is the date on there -- what's  
10:20:44 3 the date on there?

10:20:44 4 A. 1/1 of 2017.

10:20:47 5 Q. Okay. Now, reading through this list  
10:20:49 6 of officers is there anyone that's on this list who  
10:20:53 7 still currently works in C District?

10:21:01 8 A. Yes.

10:21:01 9 Q. Okay. And who is that?

10:21:05 10 A. Officer David Santana, myself,  
10:21:10 11 Lieutenant Anthony McHue. She's parole on here,  
10:21:15 12 but she's now a detective, Erin Haidinger, and that  
10:21:19 13 would be all.

10:21:19 14 Q. Okay. Now, just because I don't really  
10:21:22 15 understand I guess the hierarchy of rankings, where  
10:21:26 16 does a detective fall in terms of the ranking or  
10:21:31 17 hierarchy for detective as opposed to a lieutenant?

10:21:31 18 A. Well, detective is on the investigative  
10:21:33 19 side. Where I'm the supervisory side.

10:21:36 20 Q. Okay.

10:21:37 21 A. But we would oversee detectives, we  
10:21:39 22 would be responsible as a lieutenant to call them  
10:21:43 23 out. So they're investigative, we're supervisory.

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10:21:46 1 Q. Okay. Okay. So now you said Officer  
10:21:55 2 David Santana is still currently working in the C  
10:22:00 3 District. Is he still -- has his role changed?  
10:22:02 4 A. No.  
10:22:02 5 Q. He's still a police officer?  
10:22:04 6 A. Yes.  
10:22:04 7 Q. Okay. What about for Anthony McHue, is  
10:22:08 8 he a lieutenant still?  
10:22:09 9 A. Yes.  
10:22:09 10 Q. Okay. And I believe you said for  
10:22:12 11 Ms. Haidinger she's now a detective?  
10:22:15 12 A. Yes.  
10:22:15 13 Q. Okay. And who's, I'm sorry, the fourth  
10:22:18 14 person who's still working in the C District?  
10:22:23 15 A. One, two, three, four. Kevin Quinn,  
10:22:24 16 he's a patrol officer, he's also still in the C  
10:22:30 17 District.  
10:22:30 18 Q. Okay.  
10:22:30 19 A. And then I had said myself.  
10:22:33 20 Q. Okay. Now, do you know what shift  
10:22:36 21 Mr. McHue is working?  
10:22:37 22 A. He's days.  
10:22:38 23 Q. He's days. So do you and Lieutenant

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10:22:44 1 McHue work the same day shifts?

10:22:46 2 A. Currently, yes.

10:22:47 3 Q. Okay. And you work on the same days as  
10:22:50 4 well?

10:22:50 5 A. Yes.

10:22:51 6 Q. Okay. Are there always two lieutenants  
10:22:54 7 who are working at any given time?

10:22:56 8 A. There are two, on my particular wheel  
10:22:59 9 there are two assigned, but we can work with just  
10:23:03 10 one if one is out for the day.

10:23:04 11 Q. Okay. Are there different groups, I  
10:23:09 12 guess, of C District police officers? Do some work  
10:23:13 13 some days while others work another day?

10:23:16 14 A. In our district we have two wheels, we  
10:23:18 15 have an A wheel and a B wheel, so when A wheel is  
10:23:22 16 working, the B wheel is off, and that's all three  
10:23:25 17 shifts.

10:23:25 18 And when the B wheel is working the A wheel  
10:23:26 19 is off, because we work all year-round and they  
10:23:28 20 always have to be covered, so we just have two  
10:23:30 21 sides. So when the one side is off, the other side  
10:23:32 22 is working.

10:23:33 23 Q. Okay. Does -- do you work as a

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10:23:38 1 lieutenant for both the A wheel and the B wheel?

10:23:40 2 A. No, I work on -- there's a discrepancy  
10:23:43 3 on which one is labeled the A and the B, but I work  
10:23:44 4 on the A side.

10:23:45 5 Q. Okay. And then does Lieutenant McHue  
10:23:48 6 work on the B side?

10:23:50 7 A. No, he is on the A side as well.

10:23:53 8 Q. Okay. Who is the lieutenant that works  
10:23:55 9 on the B side?

10:23:56 10 A. It is Lieutenant Bradford Pitts  
10:24:01 11 and -- and Lieutenant Ibrahim Abdul-Wahed.

10:24:06 12 Q. Thank you.

10:24:09 13 A. You're welcome.

10:24:12 14 Q. So you said that you worked the  
10:24:14 15 afternoon shift as a lieutenant in the C District,  
10:24:16 16 correct?

10:24:16 17 A. Yes.

10:24:17 18 Q. Who was the other lieutenant that you  
10:24:19 19 were working with at the time?

10:24:21 20 A. Leonetta Baskerville.

10:24:23 21 Q. And how long did you work with her for?

10:24:26 22 A. The entirety of the time I was on  
10:24:28 23 afternoons, so I believe it was approximately six

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10:24:31 1 months.

10:24:31 2 Q. Okay.

10:24:31 3 A. I could be a little bit off on my times  
10:24:37 4 it's a lot to try to remember on the shift, how  
10:24:37 5 long I was on the shift.

10:24:37 6 Q. And so for purposes of the deposition  
10:24:40 7 it's perfectly fine if you're not specific and  
10:24:41 8 exactly right. I'm just asking for you to give  
10:24:44 9 answers to the best of your ability.

10:24:46 10 A. Okay.

10:24:47 11 Q. As a detective, who was your lieutenant  
10:24:49 12 at the time?

10:24:58 13 A. I apologize, we've had so much movement  
10:25:01 14 and promotions, I'm trying to recall who was my  
10:25:05 15 lieutenant when I was an afternoons. I don't  
10:25:13 16 recall who was my lieutenant an afternoons.

10:25:19 17 Q. And that's okay if you don't recall.

10:25:22 18 A. We had a whole shift -- a whole shift  
10:25:24 19 change. I cannot recall who was -- I -- I don't  
10:25:27 20 recall who was the lieutenant.

10:25:28 21 Q. And that's okay. So after lieutenant  
10:25:32 22 who was next on the hierarchy after in charge of  
10:25:37 23 the C District?

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10:25:37 1 A. It would be the captain.

10:25:39 2 Q. Okay. And is the captain in charge of  
10:25:42 3 just the C District or does he have other districts  
10:25:45 4 that he overlooks as well?

10:25:47 5 A. It depends on who the captain is -- or,  
10:25:49 6 I'm sorry, where the captain is assigned. We have  
10:25:50 7 district captains, so if a captains in C District  
10:25:52 8 are just for C District.

10:25:53 9 Q. And currently who is the C District  
10:25:57 10 captain?

10:25:58 11 A. Jason Whitenight and Joseph Langdon.

10:26:05 12 Q. And were they the captains in January  
10:26:07 13 of 2017?

10:26:09 14 A. I don't believe so.

10:26:10 15 Q. Okay. Do you recall who the captains  
10:26:13 16 were in C District at that time?

10:26:15 17 A. I do not.

10:26:16 18 Q. Okay. As a lieutenant, do you report  
10:26:19 19 for the captain?

10:26:20 20 A. Yes.

10:26:21 21 Q. And how often do you communicate with  
10:26:23 22 the captain?

10:26:24 23 A. The captain that works on my side is

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10:26:27 1 overnight, he works the night shift, so I will see  
10:26:31 2 him in passing in the morning if he's still there.  
10:26:34 3 So once or twice in a two-week period I'll cross  
10:26:39 4 paths with him.

10:26:39 5 Q. Okay. Now, as a lieutenant, you're in  
10:26:42 6 charge of briefing the police officers before they  
10:26:44 7 start their shift, correct?

10:26:46 8 A. Correct.

10:26:46 9 Q. What kinds of things do you discuss  
10:26:48 10 during that briefing?

10:26:49 11 A. We discuss any legal updates that we've  
10:26:52 12 been provided by the department. We discuss any  
10:26:54 13 persons of interest that the detectives may be  
10:26:57 14 looking for, or warrant arrests and anything  
10:27:01 15 pertinent to officer safety, and then we may review  
10:27:05 16 vehicle assignments.

10:27:06 17 Q. Okay. Now, do you recall on  
10:27:10 18 January 1st of 2017 was there some sort of briefing  
10:27:15 19 before you started your shift?

10:27:16 20 A. Yes.

10:27:16 21 Q. And who gave that briefing?

10:27:20 22 A. Lieutenant McHugh.

10:27:21 23 Q. Okay. Do you remember what was said

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10:27:25 1 during that briefing?

10:27:25 2 A. I do not.

10:27:26 3 Q. Okay. Now, you talked about in your  
10:27:29 4 experience as a lieutenant you would give legal  
10:27:32 5 updates. What sorts of legal updates would you  
10:27:35 6 give to the police officers before they began their  
10:27:38 7 shift?

10:27:38 8 MS. HUGGINS: Form. You may answer.

10:27:39 9 THE WITNESS: For example, we recently were  
10:27:42 10 experiencing raise the age law changes, so we would  
10:27:44 11 just remind officers in dealing with juveniles and  
10:27:47 12 any updates or changes in procedures as we were  
10:27:50 13 getting into this new process.

10:27:52 14 BY MR. DAVENPORT:

10:27:54 15 Q. What other sorts of new processes or  
10:27:56 16 new updates have you had to brief the officers on  
10:28:00 17 as a lieutenant?

10:28:02 18 A. That was the one that first came to my  
10:28:06 19 mind with the raise the age. I -- I don't recall  
10:28:07 20 specifically anything else now.

10:28:08 21 Q. How often are you giving these sorts of  
10:28:12 22 legal updates as a lieutenant?

10:28:14 23 A. As often as the department gives them

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10:28:17 1 out to us and requires it.

10:28:18 2 Q. And approximately how often is that?

10:28:20 3 MS. HUGGINS: Form. You may answer.

10:28:21 4 THE WITNESS: It depends on what laws come  
10:28:24 5 out and how often legislations pass and it would  
10:28:30 6 depend on that, not us.

10:28:32 7 BY MR. DAVENPORT:

10:28:33 8 Q. So you've been working as a lieutenant  
10:28:35 9 since June of 2018, correct, or was it July of  
10:28:41 10 2018?

10:28:41 11 A. July of 2018.

10:28:42 12 Q. July of 2018. So since July of 2018  
10:28:47 13 approximately how many times have you had to give  
10:28:50 14 these sorts of legal update briefings to your  
10:28:55 15 police officers?

10:28:57 16 A. I can't give a specific number.

10:28:59 17 Q. Okay. Is it more than 10?

10:29:03 18 A. I would say more than 10.

10:29:05 19 Q. Is it more than 20?

10:29:08 20 A. Possibly.

10:29:10 21 Q. Okay. Would it be more than 50?

10:29:14 22 A. I wouldn't say more than 50.

10:29:16 23 Q. Okay. Now, you also said that part of

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10:29:21 1 your briefing is persons of interest. Would that  
10:29:25 2 be just within the C District or would that be  
10:29:27 3 other districts as well?

10:29:28 4 A. Citywide.

10:29:30 5 Q. Citywide. How often do you get  
10:29:36 6 briefings where you discuss a person of interest?

10:29:38 7 MS. HUGGINS: Form. You may answer.

10:29:40 8 THE WITNESS: Daily.

10:29:41 9 BY MR. DAVENPORT:

10:29:42 10 Q. Are they typically the same persons or  
10:29:46 11 do you not repeat those types of briefings? And,  
10:29:49 12 I'm sorry, I'll rephrase my question.

10:29:52 13 After you have given an update regarding a  
10:29:55 14 person of interest, do you then update the officers  
10:29:58 15 each day until that person of interest is found or  
10:30:02 16 located?

10:30:02 17 A. We will revisit it if there's been a  
10:30:05 18 change in the status. If they've been found or  
10:30:08 19 located or we received new information or if  
10:30:11 20 they're no longer a person of interest.

10:30:13 21 Q. Okay. Has Mr. Kistner ever come up as  
10:30:16 22 a person of interest?

10:30:17 23 A. Not that I can recall.

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10:30:19 1 Q. And that would be in your capacity as a  
10:30:21 2 police officer and a lieutenant?

10:30:22 3 A. Correct.

10:30:25 4 Q. Okay. So since you started as  
10:30:27 5 lieutenant over at C District do you communicate  
10:30:31 6 with your police officers?

10:30:32 7 A. Yes.

10:30:32 8 Q. Okay. How do you communicate with your  
10:30:36 9 police officers?

10:30:38 10 A. Can you clarify?

10:30:40 11 Q. Do you communicate over the radio?

10:30:42 12 A. Yes.

10:30:42 13 Q. Okay. Now, do you communicate during  
10:30:47 14 work about work-related issues, do you communicate  
10:30:51 15 by any other method besides radio?

10:30:53 16 A. Yes.

10:30:54 17 Q. And how is that?

10:30:56 18 A. In person or by phone.

10:30:58 19 Q. Okay. And is that by text messages?

10:31:00 20 A. Usually not.

10:31:01 21 Q. Phone calls?

10:31:02 22 A. Yes.

10:31:02 23 Q. Okay. How often do you use phone calls

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10:31:05 1 to communicate with your police officers about  
10:31:07 2 work-related incidents?

10:31:09 3 A. It varies throughout the day.

10:31:11 4 Q. Okay. Is it daily?

10:31:12 5 A. Yes.

10:31:16 6 Q. Okay. How many times daily  
10:31:18 7 approximately, is it more than once, or --

10:31:21 8 A. I couldn't give a specific number. It  
10:31:25 9 changes day-to-day. Every day is different.

10:31:27 10 Q. Okay. Do you know if Lieutenant McHugh  
10:31:29 11 communicates with his police officers by phone?

10:31:33 12 A. You would have to ask Lieutenant  
10:31:33 13 McHugh.

10:31:33 14 Q. Okay. Are you aware of any other  
10:31:33 15 lieutenants who communicate with their officers by  
10:31:36 16 phone?

10:31:36 17 A. You would have to ask the other  
10:31:36 18 lieutenants.

10:31:36 19 THE REPORTER: You have to speak up for me.

10:31:36 20 THE WITNESS: I'm sorry. Yeah, I would ask  
10:31:36 21 other lieutenants.

10:31:43 22 BY MR. DAVENPORT:

10:31:43 23 Q. Okay. Do you know if that is part of

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10:31:46 1 the policies and procedures to communicate with the  
10:31:48 2 other officers by phone?

10:31:49 3 A. I don't specifically recall reading  
10:31:51 4 that in our policy and procedure.

10:31:54 5 Q. Okay. As a lieutenant, did you have to  
10:31:56 6 get any sort of training before you were promoted?

10:31:59 7 A. Yes.

10:32:00 8 Q. Okay. And what sorts of training do  
10:32:03 9 you remember specifically to become a lieutenant?

10:32:06 10 A. It's not training to become a  
10:32:09 11 lieutenant. Once we're promoted lieutenant we did  
10:32:11 12 a short training on our duties and how -- and what  
10:32:17 13 was our -- what -- excuse me, what our requirements  
10:32:19 14 were as lieutenants and to include new  
10:32:22 15 documentation, supervisory reports, things of that  
10:32:25 16 nature.

10:32:27 17 Q. Now, in terms of accidents involving  
10:32:32 18 police vehicles, did you get any sort of training  
10:32:35 19 involving, you know, those types of incidents?

10:32:37 20 MS. HUGGINS: Form. You may answer.

10:32:38 21 THE WITNESS: As a lieutenant, no. As a  
10:32:42 22 patrol officer, yes.

10:32:43 23 BY MR. DAVENPORT:

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10:32:44 1 Q. What kind of training did you get for  
10:32:46 2 accidents involving police vehicles?

10:32:48 3 A. For -- the procedure for accidents  
10:32:53 4 involving police vehicles would be to as a patrol  
10:32:56 5 officer notify your supervisor and then proceed  
10:33:01 6 with what the supervisor recommends.

10:33:04 7 Q. Okay. And who would the supervisor be  
10:33:08 8 that you would contact?

10:33:09 9 A. As a lieutenant or as a patrol officer?

10:33:12 10 Q. As a patrol officer.

10:33:12 11 A. My immediate supervisor, the  
10:33:12 12 lieutenant.

10:33:12 13 Q. Okay. Now, as a lieutenant, what would  
10:33:20 14 your responsibilities be once a police officer has  
10:33:22 15 contacted you about a -- an accident involving a  
10:33:26 16 police vehicle?

10:33:27 17 MS. HUGGINS: Form. You may answer.

10:33:28 18 THE WITNESS: Depending on the facts of  
10:33:32 19 the -- I -- I would need more facts regarding the  
10:33:35 20 incident, just the patrol, what happened, what  
10:33:38 21 exactly happened with that vehicle and the officer.  
10:33:41 22 How was the vehicle involved in an accident.

10:33:44 23 BY MR. DAVENPORT:

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10:33:45 1 Q. So after you interview the officer and  
10:33:47 2 you get the facts that you need to make your  
10:33:50 3 determination, if that officer said that they  
10:33:52 4 collided with another vehicle, what would your next  
10:33:55 5 steps be?

10:33:56 6 MS. HUGGINS: Form. You may answer.

10:33:57 7 THE WITNESS: It's just that would be a true  
10:34:00 8 city involved accident and I would have to call out  
10:34:03 9 our accident investigation unit as well as internal  
10:34:06 10 affairs.

10:34:06 11 BY MR. DAVENPORT:

10:34:07 12 Q. Okay. Now, let's say that that patrol  
10:34:11 13 vehicle contacted a person, would the procedure  
10:34:13 14 change?

10:34:13 15 MS. HUGGINS: Form.

10:34:14 16 THE WITNESS: It would depend on what  
10:34:16 17 contact meant.

10:34:17 18 BY MR. DAVENPORT:

10:34:18 19 Q. Okay. Let's say that that police  
10:34:20 20 vehicle struck an individual and knocked that  
10:34:20 21 individual over, what would the next steps be?

10:34:23 22 A. Excuse me. Can you repeat that?

10:34:23 23 MS. HUGGINS: Form. You may answer.

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10:34:25 1 BY MR. DAVENPORT:

10:34:25 2 Q. Let's say that a patrol vehicle struck  
10:34:26 3 an individual and that individual fell to the  
10:34:30 4 ground, what would the next steps be as a  
10:34:33 5 lieutenant?

10:34:33 6 A. Again, if that was just the fact  
10:34:34 7 pattern that was given, it's just kind of  
10:34:36 8 speculating on what it would be, but if a patrol  
10:34:40 9 vehicle struck a person, the same procedure would  
10 follow as if two -- two -- a patrol vehicle  
11 collided with another vehicle.

12 Q. Okay.

13 THE REPORTER: Can you slow down for me a  
14 little.

10:34:49 15 THE WITNESS: Yes. Sorry.

10:34:49 16 MS. HUGGINS: Pause after he asks the  
10:34:52 17 questions too.

10:34:52 18 THE WITNESS: Okay.

10:34:52 19 MS. HUGGINS: Because at the very end you're  
10:34:53 20 overlapping.

10:34:54 21 THE WITNESS: Okay.

10:34:57 22 BY MR. DAVENPORT:

10:34:58 23 Q. So after the accident investigation

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10:35:01 1 unit has been contacted, what would the accident

10:35:04 2 investigation unit, what would their steps be?

10:35:07 3 A. I'm not trained in accident

10:35:09 4 investigation, so I wouldn't be able to speculate

10:35:12 5 on what their procedures are.

10:35:13 6 Q. As a lieutenant, would you have to go

10:35:15 7 to the scene?

10:35:16 8 A. It depends on the circumstance.

10:35:18 9 Q. Okay. Let's say it's the same

10:35:20 10 circumstance, let's say a police vehicle has struck

10:35:23 11 an individual and knocked that individual over, the

10:35:26 12 accident investigation unit has been contacted. As

10:35:28 13 a lieutenant, would you have to go to the scene to

10:35:30 14 go investigate yourself?

10:35:31 15 MS. HUGGINS: Form. You may answer.

10:35:33 16 THE WITNESS: I would -- as a lieutenant, I

10:35:37 17 would go -- I go to most of my scenes as a

10:35:40 18 lieutenant.

10:35:40 19 BY MR. DAVENPORT:

10:35:40 20 Q. Okay. Now, when you say most of your

10:35:43 21 scenes as a lieutenant, what is that referring to?

10:35:45 22 A. I'm -- I'm out on the streets, I'm

10:35:47 23 active. I go to my scenes regardless of the

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10:35:52 1 severity, I'm really interactive.

10:35:54 2 Q. Okay.

10:35:55 3 A. If I can make it, depending on the  
10:35:58 4 types of calls we have, if there's a lot going on.

10:36:01 5 Q. Do you try to make yourself available  
10:36:05 6 at any call that an officer in C District is  
10:36:09 7 dispatched to?

10:36:09 8 A. That's impossible. I'm one person.

10:36:12 9 Q. Sure. Do you try to make yourself  
10:36:15 10 available to as many of those calls as possible as  
10:36:20 11 a lieutenant in C District?

10:36:20 12 A. If they're requesting me, they're  
10:36:23 13 asking for me to be there, yes.

10:36:24 14 Q. What types of calls would you expect  
10:36:27 15 your police officers to request your presence at?

10:36:29 16 MS. HUGGINS: Form. You may answer.

10:36:31 17 THE WITNESS: That would depend on the  
10:36:33 18 officer, their experience, how much time they have,  
10:36:36 19 if they feel they can handle the type of scene.  
10:36:39 20 But there are certain scenes that I'm required to  
10:36:40 21 respond to. So I will automatically go to those  
10:36:45 22 calls, but any other call that an officer feels  
10:36:46 23 like they may need my assistance with I go.

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10:36:50 1 BY MR. DAVENPORT:

10:36:51 2 Q. If -- now, you talked about scenes that  
10:36:55 3 you're required to go to. Are one of those types  
10:36:58 4 of scenes where a police vehicle is involved with  
10:37:03 5 contacting or colliding with an individual and the  
10:37:08 6 accident investigation unit going to the scene to  
10:37:11 7 go investigate?

10:37:11 8 MS. HUGGINS: Form. You may answer.

10:37:14 9 THE WITNESS: Can you repeat that question?

10:37:16 10 BY MR. DAVENPORT:

10:37:16 11 Q. Sure. As a lieutenant, are you  
10:37:19 12 required to go to a scene involving a police  
10:37:23 13 vehicle contacting an individual where accident  
10:37:27 14 investigation unit has gone to go investigate the  
10:37:30 15 accident?

10:37:30 16 MS. HUGGINS: Form. You may answer.

10:37:32 17 THE WITNESS: I would request, I would  
10:37:34 18 determine the facts of the incident, and I would  
10:37:36 19 request the accident investigation unit to respond.  
10:37:39 20 And if the accident investigation unit was called  
10:37:42 21 out, then I would respond as well.

10:37:44 22 BY MR. DAVENPORT:

10:37:45 23 Q. Okay. Now, as a lieutenant, are there

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10:37:48 1 any sort of procedures that you would expect  
10:37:52 2 accident investigation unit to go through? For  
10:37:55 3 example, pictures of the accident, statements from  
10:37:58 4 witnesses, anything of that nature that you would  
10:38:01 5 expect them to go through?

10:38:02 6 MS. HUGGINS: Form. You can answer.

10:38:03 7 THE WITNESS: Again, I can't speculate on  
10:38:06 8 what their policy or their procedures are in their  
10:38:09 9 course of how they conduct their investigations.  
10:38:13 10 I'm not trained in accident investigation.

10:38:15 11 BY MR. DAVENPORT:

10:38:16 12 Q. As a lieutenant, are you obligated to  
10:38:18 13 fill out any paperwork involving a accident  
10:38:22 14 involving a police vehicle and an individual?

10:38:24 15 A. If there is an accident involving a  
10:38:26 16 police vehicle, I am required to do the accident  
10:38:28 17 report.

10:38:28 18 Q. Okay. And what sort of information do  
10:38:32 19 you put on that accident report?

10:38:34 20 A. It depends on the facts of the  
10:38:36 21 accident.

10:38:36 22 Q. Okay. What sort of information do they  
10:38:40 23 ask you to comment on as a lieutenant within the

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10:38:42 1 accident report?

10:38:43 2           A.     On an MV-104 it asks if -- there's two  
10:38:49 3 sections on it, whether it's a vehicle, pedestrian,  
10:38:52 4 bicycle, then just information in regards to  
10:38:56 5 registration, insurance, points of impact, most  
10:39:01 6 damage on the vehicle.

10:39:02 7           Then you could either circle how the  
10:39:07 8 incident -- how the incident occurred or direction  
10:39:10 9 of travel, then you would write a small narrative  
10:39:14 10 regarding the accident.

10:39:16 11           And then there's boxes on the side that,  
10:39:19 12 again, just what may have con -- contributing  
10:39:22 13 factors, whether direction of travel, if there was  
10:39:30 14 a subsequent event as a result of the first  
10:39:33 15 accident.

10:39:34 16           Like if somebody, for instance, hit a  
10:39:36 17 vehicle and then they veered off and struck a tree,  
10:39:39 18 that would be the second event. And that's what I  
10:39:44 19 can recall at this time that's required on that  
10:39:46 20 document.

10:39:46 21           Q.     Okay. Now, as part of these forms, is  
10:39:52 22 there anything besides the MV-104 form that you're  
10:39:56 23 required to fill out as a lieutenant?

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10:39:57 1 A. There is, and I don't recall the name  
10:39:59 2 of the document at this time.

10:40:00 3 Q. That's okay. Do you remember generally  
10:40:03 4 what that document asks?

10:40:05 5 A. It's the same thing, just the fact  
10:40:07 6 pattern of the incident, if there's an accident.  
10:40:10 7 Based on our investigation it basically would  
10:40:13 8 reflect the narrative on the MV-104, what were the  
10:40:19 9 contributing factors, what -- what would  
10:40:21 10 have -- how the accident occurred.

10:40:22 11 Q. Now, that MV-104 form as a lieutenant,  
10:40:26 12 who would you give that to?

10:40:28 13 A. That would be filed. It would go -- it  
10:40:31 14 gets sent off to the state.

10:40:33 15 Q. That's the State of New York?

10:40:35 16 A. Yes.

10:40:36 17 Q. And that other form that's not the  
10:40:41 18 MV-104 form, who do you file that with?

10:40:43 19 A. That goes to the department.

10:40:44 20 Q. The City of Buffalo department?

10:40:46 21 A. Correct.

10:40:47 22 Q. And how long would that document be  
10:40:50 23 maintained?

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10:40:51 1 A. I don't know.

10:40:53 2 Q. After it's filed with the City of  
10:40:55 3 Buffalo, are there any officers who review that  
10:40:58 4 document?

10:40:58 5 A. I believe the captain does.

10:41:02 6 Q. Now, as a lieutenant, would you expect  
10:41:06 7 your police officers to file any sort of paperwork  
10:41:10 8 involving -- in an accident involving a police  
10:41:13 9 vehicle?

10:41:13 10 MS. HUGGINS: Form. You may answer.

10:41:20 11 THE WITNESS: They would prepare an  
10:41:24 12 interdepartmental memorandum giving their version  
10:41:29 13 of events.

10:41:31 14 BY MR. DAVENPORT:

10:41:32 15 Q. Are there any other sorts of forms that  
10:41:35 16 these officers would have to fill out?

10:41:36 17 A. If they were injured as a result, they  
10:41:39 18 would fill out injured-on-duty paperwork.

10:41:42 19 Q. Any other forms?

10:41:43 20 A. Not that I can recall.

10:41:44 21 Q. Now, this interdepartmental form, what  
10:41:47 22 sort of information is asked of the officers on  
10:41:49 23 that?

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10:41:50 1 MS. HUGGINS: Form.

10:41:50 2 THE WITNESS: Just the facts of the event or  
10:41:52 3 the incident.

10:41:54 4 BY MR. DAVENPORT:

10:41:54 5 Q. Is it a long form?

10:41:55 6 A. No, it's a blank document that they  
10:41:59 7 create the contents of.

10:42:02 8 Q. Who does that interdepartmental form go  
10:42:07 9 to?

10:42:08 10 A. The department, City of Buffalo, the  
10:42:10 11 police department.

10:42:10 12 Q. Would you review that as a lieutenant?

10:42:13 13 A. Yes.

10:42:14 14 MS. HUGGINS: Form.

10:42:15 15 BY MR. DAVENPORT:

10:42:16 16 Q. Who else would review that form?

10:42:17 17 A. That would go through the chain of  
10:42:22 18 command.

10:42:22 19 Q. So that would be the captain and then  
10:42:24 20 would it go beyond the captain as well?

10:42:26 21 A. Yes.

10:42:27 22 MS. HUGGINS: Form.

10:42:27 23 BY MR. DAVENPORT:

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10:42:28 1 Q. Who -- who else besides the captain  
10:42:29 2 would review it that's higher on the hierarchy?

10:42:33 3 A. I can't speculate on who -- who all  
10:42:36 4 would look at it.

10:42:37 5 Q. Okay. Do you know who's supposed to  
10:42:39 6 look at it?

10:42:39 7 MS. HUGGINS: Form.

10:42:40 8 THE WITNESS: I know on the document it's  
10:42:43 9 from the commissioner down the chain of command we  
10:42:47 10 list on the document.

10:42:50 11 BY MR. DAVENPORT:

10:42:51 12 Q. Now, after these forms have been filled  
10:42:53 13 out, is there any sort of an investigation or -- or  
10:42:59 14 questions asked of the police officer besides  
10:43:02 15 what's written on that form?

10:43:04 16 MS. HUGGINS: Form.

10:43:05 17 THE WITNESS: That depends on the department  
10:43:09 18 what they request. Once I fill out my  
10:43:12 19 documentation that incident and the investigation  
10:43:14 20 is no longer under my supervision, it goes through  
10:43:20 21 the department chain of command.

10:43:21 22 BY MR. DAVENPORT:

10:43:22 23 Q. Okay. Do you know who would be making

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10:43:24 1 those decisions, would it be the captain?

10:43:26 2 MS. HUGGINS: Form.

10:43:26 3 THE WITNESS: I do not.

10:43:36 4 BY MR. DAVENPORT:

10:43:37 5 Q. Now, at the scene are there ever  
10:43:42 6 statements taken from witnesses of the accident?

10:43:45 7 MS. HUGGINS: Form.

10:43:46 8 THE WITNESS: For just in general any  
10:43:48 9 accident?

10:43:48 10 BY MR. DAVENPORT:

10:43:49 11 Q. For an accident involving a police  
10:43:51 12 vehicle.

10:43:51 13 A. In any motor vehicle accident involving  
10:43:54 14 any vehicle if there are witnesses available.

10:43:57 15 Q. Now, what would constitute a witness  
10:44:00 16 that's available?

10:44:01 17 A. If some -- if we were out asking if  
10:44:05 18 there were witnesses of if someone would come up to  
10:44:05 19 us and state they had seen what happened.

10:44:11 20 Q. Who would gather those statements from  
10:44:15 21 the witnesses, would it be the police officers, the  
10:44:17 22 lieutenant, or would it be the accident  
10:44:19 23 investigation unit?

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10:44:20 1 A. That would depend.

10:44:22 2 Q. Would you as a lieutenant take  
10:44:25 3 statements from witnesses?

10:44:26 4 A. It depends.

10:44:28 5 Q. And what would that depend on?

10:44:30 6 A. If there were other officers available,  
10:44:33 7 if somebody came to me, if I had time to take the  
10:44:36 8 statement, or if -- who was investigating it.

10:44:38 9 Q. Okay. Would there be any other sort of  
10:44:44 10 tests or statements or anything else of these  
10:44:47 11 police officers or the individual who's involved in  
10:44:51 12 the accident?

10:44:51 13 MS. HUGGINS: Form.

10:44:52 14 THE WITNESS: It depends.

10:44:52 15 THE REPORTER: I'm sorry. What was your  
10:44:52 16 answer?

10:44:56 17 THE WITNESS: It depends.

10:44:56 18 BY MR. DAVENPORT:

10:44:56 19 Q. Okay. Would there ever be a urine  
10:44:59 20 analysis of the officer involved in the accident?

10:45:02 21 MS. HUGGINS: Form.

10:45:03 22 THE WITNESS: I would not know.

10:45:04 23 BY MR. DAVENPORT:

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10:45:05 1 Q. Okay. That's not anywhere in the  
10:45:08 2 policies or procedures?

10:45:09 3 A. Not that I can recall.

10:45:11 4 Q. Okay. In a regular motor vehicle  
10:45:13 5 accident would there ever be a urine analysis of  
10:45:19 6 any of the individuals involved in that motor  
10:45:21 7 vehicle accident?

10:45:21 8 MS. HUGGINS: Form.

10:45:22 9 THE WITNESS: It would depend on the  
10:45:25 10 situation. And, again, I'm not an accident  
10:45:28 11 investigator, so I would not know.

10:45:30 12 BY MR. DAVENPORT:

10:45:30 13 Q. Sure. In your experience as a police  
10:45:35 14 officer, did you ever witness any accidents not  
10:45:38 15 involving police vehicles?

10:45:39 16 A. Yes.

10:45:41 17 Q. Was there ever a time where a urine  
10:45:45 18 analysis was conducted of any of the drivers?

10:45:48 19 A. Excuse me. As a -- I've witnessed  
10:45:51 20 accidents as a civilian. I've never witnessed an  
10:45:54 21 accident -- actually, I was in one accident as a  
10:45:56 22 passenger, but I didn't -- are you asking as a  
10:46:00 23 patrol officer if I've witnessed an accident or as

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10:46:03 1 a civilian if I've witnessed an accident?

10:46:04 2 Q. Well, my question was more so as a  
10:46:07 3 patrol officer, so you can answer that first.

10:46:09 4 A. Okay.

10:46:09 5 MS. HUGGINS: As a patrol officer, has she  
10:46:12 6 witnessed an accident?

10:46:13 7 BY MR. DAVENPORT:

10:46:13 8 Q. Correct.

10:46:14 9 A. Yes.

10:46:15 10 Q. Okay. Were you present for the  
10:46:17 11 investigation of that accident?

10:46:17 12 A. Partial.

10:46:19 13 Q. At any point did it seem like either of  
10:46:23 14 the drivers may be intoxicated?

10:46:25 15 A. No.

10:46:26 16 MS. HUGGINS: Form.

10:46:26 17 BY MR. DAVENPORT:

10:46:27 18 Q. Okay. As a civilian have you ever  
10:46:29 19 witnessed a car accident?

10:46:31 20 A. Yes.

10:46:31 21 Q. Have you been involved in a car  
10:46:34 22 accident?

10:46:34 23 A. Yes. Excuse me. As a civilian or as a

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10:46:39 1 patrol officer?

10:46:40 2 Q. As a civilian.

10:46:41 3 A. Yes.

10:46:41 4 Q. Were you a driver or a passenger as a  
10:46:44 5 civilian?

10:46:44 6 A. Driver.

10:46:45 7 Q. Driver. Did it appear that the other  
10:46:47 8 driver or you were intoxicated at the time?

10:46:49 9 MS. HUGGINS: Form.

10:46:49 10 THE WITNESS: No.

10:46:50 11 BY MR. DAVENPORT:

10:46:52 12 Q. Okay. Have you ever witnessed an  
10:46:53 13 accident involving somebody who may have been  
10:46:56 14 intoxicated at the time?

10:46:58 15 A. Excuse me. Could you repeat that.

10:47:00 16 Q. Have you ever witnessed either as a  
10:47:02 17 patrol officer or as a civilian an accident where  
10:47:05 18 either of the drivers may have been intoxicated at  
10:47:08 19 the time?

10:47:08 20 MS. HUGGINS: Form. You may answer.

10:47:09 21 THE WITNESS: I've never witnessed an  
10:47:12 22 accident like that.

10:47:13 23 MR. DAVENPORT: Okay. So I'm going to have

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10:47:21 1 this marked as I believe Exhibit 24. Okay.

10:47:21 2 The following was marked for Identification:

3 EXH. 24 Buffalo Police Academy  
4 Training Record

10:48:03 5 BY MR. DAVENPORT:

10:48:04 6 Q. So I'm going to show you, Ms. Velez,  
10:48:06 7 what's been marked as Exhibit 24. Do you recognize  
10:48:08 8 that document?

10:48:09 9 A. Yes.

10:48:09 10 Q. And what do you recognize that to be?

10:48:13 11 A. The Buffalo Police Academy Training  
10:48:16 12 Record.

10:48:16 13 Q. And whose training record is it?

10:48:20 14 A. It says it is Jenny M. Velez.

10:48:24 15 Q. Okay. Now, reviewing this document  
10:48:26 16 does it seem that each of your training courses are  
10:48:30 17 listed on this document?

10:48:31 18 MS. HUGGINS: Form. You can answer.

10:48:46 19 THE WITNESS: Yes.

10:48:46 20 BY MR. DAVENPORT:

10:48:46 21 Q. Are there any inaccuracies when going  
10:48:49 22 through this document that you would like to point  
10:48:51 23 out at this time?

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10:48:55 1 A. No.

10:48:57 2 Q. So my first question is going to be if  
10:49:01 3 you could turn to the third page, please. At the  
10:49:04 4 very bottom it says CIT crisis services. And that  
10:49:08 5 would have been date from 3/4/2019, date two,  
10:49:14 6 3/7/2019; do you see where that is?

10:49:15 7 A. Yes.

10:49:15 8 Q. Okay. What is that training referring  
10:49:17 9 to?

10:49:17 10 A. Crisis intervention training.

10:49:19 11 Q. And what is crisis intervention  
10:49:22 12 training?

10:49:22 13 A. It is where we learn how to deal with  
10:49:26 14 people who may be having mental health issues, are  
10:49:29 15 in a crisis.

10:49:29 16 Q. Now, I see that you had 32 hours of  
10:49:33 17 training on that; is that correct?

10:49:34 18 A. Yes.

10:49:35 19 Q. And this training would have been after  
10:49:38 20 you had been promoted to lieutenant of C District?

10:49:41 21 A. Yes.

10:49:41 22 Q. Okay. Were police officers required to  
10:49:44 23 go through 32 hours of training?

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10:49:47 1 A. No.

10:49:48 2 Q. Was it just lieutenants who were  
10:49:50 3 required to go through 32 hours of training?

10:49:52 4 A. At the time -- currently Buffalo police  
10:49:55 5 officers do get CIT training, it's not 32 hours.

10:49:59 6 This is training that's offered. It's  
10:50:01 7 on -- currently it's voluntary. We sign up for it  
10:50:07 8 if it coincides with our schedule.

10:50:10 9 Q. Okay.

10:50:10 10 A. For the -- the extended training.

10:50:12 11 Q. Okay. What would the normal training  
10:50:14 12 be if you didn't sign up for the extended training?

10:50:18 13 A. I don't recall the exact number of  
10:50:20 14 hours --

10:50:20 15 Q. Okay.

10:50:20 16 A. -- that the department offers.

10:50:21 17 Q. Was there any reason why you signed up  
10:50:24 18 for the extended training?

10:50:25 19 A. I wanted to know more about the topic.

10:50:28 20 Q. Okay. Were there any events that  
10:50:31 21 happened that led you to want that extra knowledge?

10:50:34 22 A. Nothing specific.

10:50:35 23 Q. Okay. Do you know if Lieutenant McHugh

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10:50:40 1 also went through 32 hours of training?

10:50:42 2 A. I don't know.

10:50:43 3 Q. Okay. Do you know if any police  
10:50:45 4 officers went through the 32 hours of training?

10:50:47 5 A. There were other police officers with  
10:50:49 6 me in the training. I don't know all of in the  
10:50:53 7 Buffalo Police Department who's taken the training.

10:50:55 8 Q. Okay. Were those police officers or  
10:50:58 9 were they lieutenants?

10:50:59 10 A. Both.

10:51:00 11 Q. Okay. Now, I also see that, turning to  
10:51:08 12 the first page, towards the bottom you participated  
10:51:10 13 in what is called Tahoe training. And that would  
10:51:14 14 have been on April 10th of 2014; do you see where  
10:51:17 15 that is?

10:51:17 16 A. Yes.

10:51:18 17 Q. Okay. What sort of training was that?

10:51:24 18 A. We had gotten new Tahoes added to the  
10:51:29 19 fleet, so we had to drive them and pass a course.

10:51:32 20 Q. Okay. What sort of training did  
10:51:37 21 they -- strike that.

10:51:37 22 Going through that training, was there any  
10:51:43 23 sort of test that you had to complete in order to

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10:51:46 1 pass that training?

10:51:47 2 A. We had to complete the driving course.

10:51:50 3 Q. Okay. And what was the driving course,  
10:51:53 4 what was -- what did that consist of?

10:51:55 5 A. It was strategically placed cones we  
10:51:59 6 had to maneuver the vehicle through. I -- I don't  
10:52:01 7 remember the exact pattern.

10:52:02 8 Q. Okay. Were you driving for the  
10:52:05 9 entirety of the four hours?

10:52:06 10 A. No.

10:52:06 11 Q. Okay. Approximately how long were you  
10:52:10 12 driving during that course?

10:52:11 13 A. I don't recall, because we had a  
10:52:14 14 certain number of Tahoes, so we'd have to get out  
10:52:18 15 and somebody else would have to drive. And we'd  
10:52:21 16 have to take turns, from what I can recall.

10:52:24 17 Q. Sure. At any point that you weren't  
10:52:26 18 driving what were you doing during this training?

10:52:28 19 A. This was outdoor training, so I believe  
10:52:30 20 I was waiting.

10:52:30 21 Q. Okay.

10:52:32 22 A. And observing.

10:52:32 23 Q. Was there any sort of instruction that

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10:52:36 1 was being provided to you at that time?

10:52:39 2 A. I don't recall.

10:52:39 3 Q. Okay. Were there training instructors  
10:52:41 4 that were present with you while you were waiting?

10:52:41 5 A. Yes.

10:52:42 6 Q. Okay. Approximately how many people  
10:52:45 7 were in that class with you?

10:52:47 8 A. I don't recall.

10:52:48 9 Q. Okay. Was it more than 20?

10:52:51 10 A. I don't recall.

10:52:53 11 Q. Was it more than 50?

10:52:57 12 A. No.

10:52:57 13 Q. Okay. The amount of driving that you  
10:53:03 14 were doing, was it more than a half an hour?

10:53:06 15 A. I don't recall.

10:53:07 16 Q. Okay. Now, besides the driving, did  
10:53:12 17 they give you any sort of instruction on any of the  
10:53:16 18 electronics within the vehicle?

10:53:17 19 A. Yes.

10:53:18 20 Q. What sorts of electronics did they give  
10:53:20 21 you training on?

10:53:21 22 A. The -- how to operate the lights and  
10:53:24 23 sirens, where the buttons were.

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10:53:26 1 Q. Okay. Was there a computer that was in  
10:53:29 2 that Tahoe?

10:53:31 3 A. I don't recall.

10:53:33 4 Q. Okay. Besides operating the lights and  
10:53:36 5 sirens, was there any sort of electronic  
10:53:38 6 instruction that you were given?

10:53:40 7 A. Not that I can recall.

10:53:41 8 Q. Okay. January 18th of 2013 is the  
10:53:52 9 first course that's listed; do you see that?

10:53:56 10 MS. HUGGINS: Form.

10:53:57 11 BY MR. DAVENPORT:

10:53:57 12 Q. For rules and regulations on the first  
10:54:00 13 page?

10:54:00 14 A. January 18th?

10:54:02 15 Q. Yes, of 2013.

10:54:04 16 A. Yes.

10:54:05 17 Q. Okay. Was this approximately the date  
10:54:08 18 that you started with the Buffalo Police Academy?

10:54:11 19 A. Yes.

10:54:12 20 Q. Okay. And prior to this, what -- where  
10:54:15 21 did you receive your training?

10:54:19 22 A. This would have been when we started  
10:54:22 23 the academy, so I had no training prior to

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10:54:26 1 January 1 of 2013.

10:54:29 2 Q. Okay. Did you receive any training  
10:54:32 3 from any entity that wasn't the Buffalo Police  
10:54:37 4 Academy before this? Did you receive -- I'm  
10:54:39 5 sorry -- strike that.

10:54:40 6 Did you receive any training through the  
10:54:42 7 County before the Buffalo Police Academy?

10:54:44 8 A. Yes.

10:54:45 9 Q. Would that have been before  
10:54:48 10 January 18th of 2013?

10:54:50 11 A. Yes.

10:54:50 12 Q. Okay. Approximately how long did that  
10:54:52 13 training last for?

10:54:53 14 A. That I had with the -- with Erie  
10:54:57 15 County?

10:54:57 16 Q. With Erie County, yes.

10:54:59 17 A. That was from my previous employer with  
10:55:02 18 Erie County, because --

10:55:03 19 MS. HUGGINS: I think there's just confusion  
10:55:05 20 with the term academy.

10:55:06 21 BY MR. DAVENPORT:

10:55:07 22 Q. Okay. Now, when you say your previous  
10:55:11 23 employer, who was your previous employer before the

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10:55:15 1 Buffalo Police Department?

10:55:16 2 A. Erie County Sheriff's office.

10:55:16 3 Q. Okay. Did you work as an Erie County  
10:55:16 4 Sheriff?

10:55:16 5 A. I was a deputy --

10:55:16 6 Q. Okay.

10:55:19 7 A. -- in their jail management division.

10:55:21 8 Q. Okay. And how long did you do that  
10:55:23 9 for?

10:55:24 10 A. Approximately three years.

10:55:25 11 Q. Okay. So I'm sorry that I didn't ask  
10:55:29 12 you this before. When did you start your graduate  
10:55:35 13 program?

10:55:39 14 A. I graduated with my bachelor's in 2007.  
10:55:47 15 I can't recall if I immediately started or if I had  
10:55:49 16 taken a break. Possibly at the end of 2007.

10:55:53 17 Q. Okay. After finishing with your  
10:55:59 18 graduate program, and I understand that you didn't  
10:56:01 19 necessarily finish it, but after completing the  
10:56:05 20 amount of course work that you did, did you start  
10:56:08 21 with Erie County the deputy -- as a deputy  
10:56:10 22 immediately after?

10:56:12 23 A. It was within that time frame from when

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10:56:20 1 I -- I started with the County in April or July of  
10:56:26 2 2010. So I don't recall if there was an overlap or  
10:56:31 3 if I had stopped and then started, because of the  
10:56:34 4 schedule. I don't recall.

10:56:34 5 Q. Okay.

10:56:35 6 A. Exactly.

10:56:36 7 Q. Okay. Do you remember any other  
10:56:38 8 positions that you would have had in between your  
10:56:41 9 graduate program and starting with the County?

10:56:44 10 A. I did work with the Buffalo Board of  
10:56:47 11 Education as a security officer in the schools.

10:56:49 12 Q. Okay. Did you require any sort of  
10:56:51 13 training as a security officer for the Board of  
10:56:54 14 Education?

10:56:54 15 A. Well, I'm a -- I was a certified  
10:56:57 16 security guard, so I had taken that certification.

10:57:00 17 Q. Okay. Who was that certification  
10:57:03 18 through?

10:57:06 19 A. I don't remember the name of the  
10:57:08 20 company that I did the training with.

10:57:10 21 Q. Okay. Who was your employer at the  
10:57:14 22 time?

10:57:14 23 A. The Buffalo Board of Education.

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10:57:16 1 Q. Did you work for -- did you work  
10:57:22 2 for -- and, I'm sorry, was the Board of Education,  
10:57:25 3 was it City run or was it run by the County?

10:57:28 4 A. That's the Board of Education. It's in  
10:57:31 5 City Hall, but it's the Board of Education and the  
10:57:33 6 City of Buffalo is separate.

10:57:34 7 Q. Okay.

10:57:35 8 A. It's the City -- City of Buffalo School  
10:57:37 9 District.

10:57:37 10 Q. Okay. Okay. So was your employer  
10:57:40 11 the -- the City of Buffalo then, the municipality  
10:57:44 12 of the City of Buffalo?

10:57:45 13 A. It's the City of Buffalo, but it's the  
10:57:48 14 Board of -- Buffalo Board of Education.

10:57:49 15 Q. Sure. Were you hired by a private  
10:57:54 16 security firm at the time or were you hired through  
10:57:57 17 the City of Buffalo?

10:57:59 18 A. I was --

10:57:59 19 MS. HUGGINS: Form. You can answer.

10:58:00 20 THE WITNESS: I was hired through the Board  
10:58:03 21 of Education.

10:58:03 22 BY MR. DAVENPORT:

10:58:03 23 Q. Okay. And that would have

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10:58:06 1 been -- there wouldn't have been a private security  
10:58:09 2 firm that they would have hired for their security,  
10:58:12 3 correct?

10:58:12 4 A. Correct.

10:58:13 5 Q. Okay. Now, when you started with Erie  
10:58:19 6 County as a deputy, did you have to go through any  
10:58:22 7 training before you started that position?

10:58:24 8 A. Yes.

10:58:24 9 Q. How long did that training last for?

10:58:26 10 A. That training I believe was 12 weeks.

10:58:29 11 Q. Okay. Was there multiple phases to the  
10:58:36 12 training or was it just 12 weeks that was the one  
10:58:40 13 phase?

10:58:42 14 A. There was also a -- a field training as  
10:58:46 15 well, so there was the -- their academy and then  
10:58:49 16 same thing like with the Buffalo Police, then you  
10:58:53 17 go into field training where you sit with  
10:58:55 18 experienced deputies and learn how to do the job  
10:58:59 19 essentially.

10:58:59 20 Q. Okay. How long did that field training  
10:59:03 21 last for?

10:59:03 22 A. I don't recall the exact amount of  
10:59:06 23 time.

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10:59:06 1 Q. Okay. Was it more or less than

10:59:09 2 16 weeks?

10:59:09 3 A. I don't recall.

10:59:10 4 Q. Okay. Do you remember who you did your  
10:59:15 5 field training with?

10:59:16 6 A. That -- for the sheriff's office it's  
10:59:19 7 not one set officer, it's multiple different  
10:59:22 8 officers.

10:59:23 9 Q. Okay. Okay.

10:59:24 10 A. Deputies, excuse me, multiple different  
10:59:27 11 deputies.

10:59:27 12 Q. Okay. Now, as a deputy, what were your  
10:59:32 13 primary responsibilities at that time for the  
10:59:33 14 County?

10:59:34 15 A. Care, custody, and control of the  
10:59:36 16 inmates.

10:59:38 17 Q. What jailhouse did you work at?

10:59:41 18 A. I worked at both the Erie County  
10:59:44 19 Holding Center and we had an annex at the Erie  
10:59:49 20 County Correctional facility in Alden.

10:59:51 21 Q. Okay. Where is the Erie County Holding  
10:59:54 22 Center located?

10:59:54 23 A. I believe it's 40 Delaware.

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10:59:56 1 Q. And was that the same location when you  
11:00:00 2 were working there?

11:00:00 3 A. Yes.

11:00:01 4 Q. Okay. When you started with the  
11:00:05 5 County, did you believe that you would eventually  
11:00:12 6 become a police officer with the City of Buffalo at  
11:00:15 7 that time?

11:00:15 8 A. I had aspirations to be a police  
11:00:18 9 officer.

11:00:18 10 Q. Did you want to work with the City of  
11:00:21 11 Buffalo specifically as a police officer?

11:00:23 12 A. Yes.

11:00:24 13 Q. Okay. Were there any other  
11:00:27 14 municipalities that you considered at that time?

11:00:29 15 A. No.

11:00:29 16 Q. What was your reason for wanting to  
11:00:31 17 work for the City of Buffalo?

11:00:32 18 A. This is what -- this is my home.

11:00:34 19 Q. Okay. So you've always lived in the  
11:00:36 20 City then?

11:00:37 21 A. Yes.

11:00:37 22 Q. Okay. Let's see. Now, I see -- if you  
11:00:48 23 can turn to your second page on your training

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11:00:53 1 towards the bottom there is law enforcement and  
11:00:57 2 mental health. And that would have been completed  
11:01:00 3 on August 4th of 2016; do you see where that's  
11:01:04 4 located?

11:01:04 5 A. Yes.

11:01:05 6 Q. And that would have been for three  
11:01:07 7 hours, correct?

11:01:07 8 A. Yes.

11:01:08 9 Q. Is there a difference between this  
11:01:11 10 course, law enforcement and mental health, and the  
11:01:13 11 course you took in 2019 CIT crisis services?

11:01:18 12 A. The amount hours is significantly  
11:01:21 13 different. It's much more content in the CIT  
11:01:26 14 course.

11:01:26 15 Q. Okay. Do some of the content from the  
11:01:31 16 law enforcement and mental health overlap with what  
11:01:34 17 you are taught in the CIT crisis services?

11:01:37 18 A. I don't recall the specifics.

11:01:38 19 Q. Okay. Is there anything that's covered  
11:01:42 20 in the law enforcement and mental health that's not  
11:01:46 21 covered in the CIT crisis services course?

11:01:48 22 A. I don't recall the specifics.

11:01:49 23 Q. Okay. Do you remember or recall

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11:01:53 1 anything that was specifically gone over with the  
11:01:56 2 law enforcement and mental health training course?

11:01:58 3 A. Not at this time.

11:01:59 4 Q. Do you know if there was an option to  
11:02:02 5 take more hours than the three that's listed on  
11:02:07 6 your training course?

11:02:07 7 A. I don't recall.

11:02:10 8 Q. Now, there was a voluntary option to  
11:02:14 9 take more CIT crisis services training in 2019. Do  
11:02:21 10 you know why there was that option to take more  
11:02:24 11 hours of mental health training?

11:02:26 12 MS. HUGGINS: Form. You may answer.

11:02:30 13 THE WITNESS: The Buffalo Police had  
11:02:37 14 started a -- we have a new coordinator, we have a  
11:02:43 15 new mental health coordinator, Captain Amber Buyer,  
11:02:44 16 and she -- I'm trying to think of the correct for  
11:02:52 17 how to articulate how she -- she offered these  
11:02:56 18 courses.

11:02:57 19 She put it out on a training bulletin  
11:03:00 20 through this new initiative the Buffalo Police had  
11:03:04 21 engaged in and she had put that training out.

11:03:07 22 BY MR. DAVENPORT:

11:03:07 23 Q. Okay. Do you know approximately when

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11:03:11 1 Amber Buyer began with the City of Buffalo?

11:03:14 2 A. I don't.

11:03:15 3 Q. Okay. Do you know approximately when  
11:03:17 4 this new initiative was commenced by the City of  
11:03:22 5 Buffalo?

11:03:22 6 A. I can't recall.

11:03:24 7 Q. Do you know if it was before or after  
11:03:28 8 August 4th of 2016 when you took this law  
11:03:30 9 enforcement and mental health training course?

11:03:32 10 A. I don't know.

11:03:33 11 Q. Okay. Do you have any reason to  
11:03:34 12 believe that it would have been before that date?

11:03:36 13 MS. HUGGINS: Form. You can answer.

11:03:37 14 THE WITNESS: I don't recall it being  
11:03:41 15 offered before that date.

11:03:42 16 BY MR. DAVENPORT:

11:03:43 17 Q. Okay. Have you ever met with Amber  
11:03:46 18 Buyer?

11:03:46 19 MS. HUGGINS: Form.

11:03:47 20 THE WITNESS: Could you clarify?

11:03:49 21 BY MR. DAVENPORT:

11:03:49 22 Q. Personally or professionally have you  
11:03:52 23 ever met with Amber Buyer before?

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11:03:54 1 A. She -- I've crossed paths with her in  
11:03:58 2 work.

11:03:58 3 Q. Okay.

11:03:58 4 A. Yes.

11:03:59 5 Q. Do you speak with her often?

11:04:01 6 A. Currently regarding with this new  
11:04:04 7 crisis intervention training we have if we come  
11:04:08 8 across any individuals who we believe may need  
11:04:12 9 further assistance or we may need some referrals I  
11:04:17 10 will defer to her and see if she has any  
11:04:22 11 recommendations.

11:04:22 12 Q. Approximately how often do you go to  
11:04:26 13 her with individuals who may need some sort of  
11:04:27 14 crisis intervention training?

11:04:27 15 MS. HUGGINS: Form. You can answer.

11:04:30 16 THE WITNESS: I -- that I can recall  
11:04:36 17 I -- maybe five to 10 times.

11:04:39 18 BY MR. DAVENPORT:

11:04:39 19 Q. Okay. And that would have been since  
11:04:41 20 you started as a lieutenant?

11:04:43 21 A. Since I've had this training, the CIT  
11:04:48 22 training.

11:04:48 23 Q. Okay. Okay. So that would have been

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11:04:50 1 after March 7th of 2019?

11:04:53 2 A. Correct.

11:04:54 3 Q. Now, prior to Amber Buyer beginning

11:04:58 4 with her position, was there anybody that

11:05:02 5 lieutenants or police officers could go to to speak

11:05:04 6 about, you know, what should be done about somebody

11:05:06 7 who may exhibit mental health issues?

11:05:09 8 MS. HUGGINS: Form.

11:05:12 9 THE WITNESS: We did have crisis services

11:05:16 10 that we could use as an outlet, we can always call

11:05:20 11 them, but in regards to having somebody in the

11:05:23 12 department that we can go to, I -- I didn't know of

11:05:27 13 anyone.

11:05:27 14 BY MR. DAVENPORT:

11:05:28 15 Q. Okay. Have you ever gone to Amber

11:05:38 16 Buyer after submitting a 941 form for an

11:05:44 17 individual?

11:05:45 18 MS. HUGGINS: Form. You can answer.

11:05:49 19 THE WITNESS: Can you --

11:05:51 20 BY MR. DAVENPORT:

11:05:52 21 Q. Sure.

11:05:52 22 A. -- clarify.

11:05:53 23 Q. So as an officer occasionally you fill

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11:05:57 1 out a 941 form, correct?

11:05:59 2 A. Correct.

11:06:00 3 Q. And what is a 941 form?

11:06:02 4 A. It's a mental health request to have  
11:06:05 5 someone evaluated.

11:06:05 6 Q. Have you ever gone to Amber Buyer after  
11:06:09 7 filling out a 941 form requesting some sort of an  
11:06:15 8 evaluation of an individual?

11:06:16 9 A. I have not, no.

11:06:17 10 Q. Okay. Now, these -- these other prior  
11:06:22 11 times that you've gone to go speak with Amber Buyer  
11:06:26 12 about individuals that you're concerned with, did  
11:06:30 13 you at any time fill out a 941 form for those  
11:06:34 14 individuals?

11:06:34 15 A. No.

11:06:35 16 Q. Did any officers fill out 941 forms for  
11:06:38 17 those individuals?

11:06:39 18 A. I'm not certain.

11:06:40 19 Q. Okay. What led you to be concerned  
11:06:44 20 about the mental health of these individuals that  
11:06:47 21 you spoke with Amber Buyer about?

11:06:49 22 MS. HUGGINS: Form. Just it's very broad,  
11:06:56 23 so I'm not going to prevent you from asking the

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11:07:00 1 question, but as it's phrased now I think it's  
11:07:02 2 confusing and may encompass a lot of things.

11:07:05 3 BY MR. DAVENPORT:

11:07:06 4 Q. Do you understand my question?

11:07:06 5 A. Well, I don't know if I would want to  
11:07:10 6 discuss specific mental health issues of people  
11:07:13 7 that we have dealings with.

11:07:14 8 Q. Okay. Would these individuals be  
11:07:18 9 people that you ran into in C District?

11:07:20 10 A. Yes.

11:07:21 11 Q. So I'm not asking you to disclose any  
11:07:25 12 names, so I will never be able to locate these  
11:07:28 13 individuals, but I'm just asking what sorts of  
11:07:30 14 mental health concerns did you have for those  
11:07:33 15 individuals?

11:07:33 16 MS. HUGGINS: Same form objection. I am  
11:07:36 17 concerned about HIPAA, depending on her answer.  
11:07:39 18 And the way the question is worded it may still  
11:07:42 19 implicate that.

11:07:43 20 MR. DAVENPORT: I don't think that it does.  
11:07:45 21 I mean, I'm just asking very broadly about  
11:07:49 22 individuals within the City of Buffalo, what sorts  
11:07:51 23 of mental health issues they would have had with

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11:07:54 1 those people.

11:07:55 2 MS. HUGGINS: What I -- as a compromise, I  
11:07:58 3 would allow you to ask sort of factors taken into  
11:08:01 4 account or looked at in terms of her evaluation,  
11:08:05 5 but not any -- anything about someone specific or  
11:08:08 6 their own treatment.

11:08:09 7 BY MR. DAVENPORT:

11:08:10 8 Q. Yeah, sure. I didn't ask that  
11:08:12 9 questions. Just what sorts of things were you  
11:08:14 10 concerned with with those individuals?

11:08:15 11 A. Okay. We have -- like I said, I've  
11:08:17 12 been in C District for the entirety of my career.  
11:08:20 13 We have people who we're very familiar with and  
11:08:22 14 that we know that they may have a diagnosis or they  
11:08:26 15 require a specific treatment.

11:08:28 16 If I see someone who is displaying some  
11:08:30 17 indicators, whether it be verbal, behavioral, or  
11:08:32 18 appearance and they're not a current threat to  
11:08:35 19 themselves or anyone else, but I feel that they may  
11:08:39 20 need some reevaluation and I know who they are, I  
11:08:43 21 can call and request some type of assistance for  
11:08:47 22 that person or a referral, give their name as a  
11:08:49 23 referral for further evaluation, because I know

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11:08:51 1 that they're involved in some type of services  
11:08:54 2 already.

11:08:54 3 BY MR. DAVENPORT:

11:08:54 4 Q. Okay. And what sorts of verbal and  
11:08:57 5 behavior things by these individuals would lead you  
11:09:00 6 to be concerned for their well-being?

11:09:02 7 A. For instance, it could be cold outside  
11:09:05 8 and they're not dressed appropriately for the  
11:09:08 9 weather. Or it could be very cold outside and they  
11:09:11 10 don't have the amount of clothes on that you would  
11:09:15 11 think that somebody should have in subfreezing  
11:09:18 12 temperatures. Or their hygiene.

11:09:24 13 Q. So besides hygiene and not being  
11:09:29 14 dressed appropriately, what sorts of verbal cues  
11:09:33 15 would be given by these individuals that would lead  
11:09:36 16 you to be concerned for their mental health?

11:09:38 17 A. There's a number of different  
11:09:40 18 indicators and there -- there could be more than  
11:09:42 19 one. There could be a multitude of different  
11:09:45 20 factors that would cause me to want -- want to have  
11:09:48 21 them evaluated or receive more assistance or have a  
11:09:52 22 referral or have a team come out that I know may  
11:09:56 23 have already -- like I said, the individual may

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11:09:58 1 already have services in place that we're aware of  
11:10:02 2 and we know the team that they're working with and  
11:10:02 3 say they're back out on this corner again.

11:10:06 4 They may be yelling loudly, they may be  
11:10:06 5 having a fixated repetitive speech. It could be  
11:10:09 6 something that we -- we see them often and it's not  
11:10:11 7 what we would consider a baseline behavior.

11:10:14 8 Q. Okay. Now, besides people that you  
11:10:17 9 encounter often are there ever any instances where  
11:10:21 10 you run -- run into somebody that you've never seen  
11:10:24 11 before and they give you some sort of verbal cues  
11:10:28 12 that would lead you to be concerned for their  
11:10:30 13 mental health?

11:10:31 14 A. Yes.

11:10:32 15 Q. What sorts of verbal cues would they  
11:10:36 16 give if you have never ran -- come across this  
11:10:38 17 person before?

11:10:39 18 A. That --

11:10:39 19 MS. HUGGINS: Form. You can answer.

11:10:40 20 THE WITNESS: That depends, somebody  
11:10:42 21 could -- there's a million different scenarios I  
11:10:46 22 could think of off the top of my head, but one of  
11:10:48 23 the more severe someone could yell I want to kill

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11:10:48 1 myself.

11:10:49 2 BY MR. DAVENPORT:

11:10:50 3 Q. Okay. Now, besides yelling something  
11:10:53 4 about self-harm or just speaking about self-harm,  
11:10:58 5 would you ever have mental health concerns if an  
11:11:02 6 individual was speaking about hurting another  
11:11:05 7 individual?

11:11:05 8 A. Can you repeat that?

11:11:06 9 Q. Sure. Aside from instances of  
11:11:09 10 self-harm, are there any times where you'd be  
11:11:12 11 concerned about an individual's self-help -- or  
11:11:16 12 mental health if they were talking about injuring  
11:11:19 13 another individual, not themselves?

11:11:21 14 A. Yes.

11:11:22 15 Q. Okay. And when would that cross from  
11:11:24 16 being a potential crime to one of a mental health  
11:11:29 17 concern?

11:11:29 18 MS. HUGGINS: Form. You may answer.

11:11:30 19 THE WITNESS: Could you repeat that?

11:11:32 20 BY MR. DAVENPORT:

11:11:32 21 Q. Sure. When would a threat of physical  
11:11:36 22 violence upon somebody else be a cross from a crime  
11:11:39 23 to a concern for mental health?

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11:11:42 1 A. That would depend.

11:11:43 2 Q. Okay. And this would be on isolated  
11:11:47 3 incidents where you've never come across that  
11:11:50 4 person before?

11:11:50 5 A. Either/or.

11:11:51 6 Q. Okay. Have you ever been concerned  
11:11:54 7 about an individual's mental health based on what  
11:11:58 8 they said to police officers?

11:12:00 9 MS. HUGGINS: Form. You can answer.

11:12:01 10 THE WITNESS: Could you repeat that?

11:12:02 11 BY MR. DAVENPORT:

11:12:03 12 Q. Have you ever been concerned about an  
11:12:07 13 individual's mental health based solely on what  
11:12:09 14 they said to police officers?

11:12:10 15 A. It depends on what they said.

11:12:11 16 Q. Sure. I guess my question isn't  
11:12:14 17 necessarily what they said, my question is just  
11:12:16 18 more so have you ever been concerned about  
11:12:18 19 somebody's mental health based on something that  
11:12:21 20 they said to police officers?

11:12:22 21 MS. HUGGINS: Form. You can answer.

11:12:23 22 THE WITNESS: Again, it depends on  
11:12:26 23 what -- what was said, how it was said to police

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11:12:29 1 officers, like --

11:12:30 2 BY MR. DAVENPORT:

11:12:30 3 Q. I -- I understand that, you know, what  
11:12:32 4 this individual may have said could be different.  
11:12:35 5 I'm more so just asking have you ever been  
11:12:38 6 concerned, and this is more so, you know, a  
11:12:42 7 numerical answer, so have you ever been concerned  
11:12:45 8 with somebody's mental health based on something  
11:12:48 9 that they said to police officers?

11:12:50 10 MS. HUGGINS: Form.

11:12:55 11 THE WITNESS: Could you -- you said based on  
11:12:57 12 something numerical, can you --

11:13:00 13 BY MR. DAVENPORT:

11:13:00 14 Q. Sure. So instead of saying what these  
11:13:03 15 individuals said, I more so want to know if you  
11:13:07 16 have ever been concerned about somebody's mental  
11:13:09 17 health and sought out crisis intervention for that  
11:13:13 18 individual based solely on statements that they  
11:13:16 19 made to police officers in any sort of capacity,  
11:13:22 20 what -- what they said to you specifically?

11:13:23 21 A. Yes.

11:13:24 22 Q. Okay.

11:13:25 23 MS. HUGGINS: Form as to the last question.

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11:13:27 1 BY MR. DAVENPORT:

11:13:29 2 Q. So what -- what sort of things have led  
11:13:33 3 you to be concerned, what sorts of things did that  
11:13:36 4 individual say that led you to be concerned about  
11:13:38 5 that individual's mental health based on what they  
11:13:42 6 said to you?

11:13:42 7 MS. HUGGINS: Form. You may answer.

11:13:43 8 THE WITNESS: It -- there's been numerous  
11:13:49 9 instances, whether they're articulating a homicidal  
11:13:54 10 or suicidal ideation.

11:13:57 11 BY MR. DAVENPORT:

11:13:57 12 Q. Any others that you recall?

11:13:58 13 A. Yes, if they're fixated. Like there's  
11:14:03 14 different indicators you can listen to in  
11:14:07 15 somebody's speech or how they're saying something  
11:14:09 16 to you repetitively, whether they are expressing  
11:14:15 17 some type of hallucination or delusion.

11:14:19 18 Q. Okay. Now, you've used fixated and  
11:14:24 19 repetitive language, would those essentially mean  
11:14:29 20 the same thing? If somebody is fixated, is that  
11:14:32 21 because they keep on repeating the same thing over  
11:14:36 22 and over?

11:14:36 23 A. Not necessarily.

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11:14:37 1 Q. Okay. So how would you use those terms  
11:14:41 2 fixated and repetitive?

11:14:44 3 MS. HUGGINS: Form. Let's just break it  
11:14:46 4 into two questions.

11:14:47 5 BY MR. DAVENPORT:

11:14:47 6 Q. Okay. How would you use the term  
11:14:47 7 fixated?

11:14:47 8 A. Fixated could be on an idea or a -- a  
11:14:52 9 topic. They can be artic -- they can be fixated on  
11:14:57 10 it in having -- without saying the same thing over  
11:15:01 11 and over and over again.

11:15:01 12 Q. Okay.

11:15:03 13 A. It's the same type of topic, but not  
11:15:06 14 repetitive in what is being said.

11:15:09 15 Q. Okay. Now, on January 1st of 2017 did  
11:15:16 16 you notice any of these verbal indicators of mental  
11:15:20 17 health issues with Mr. Kistner?

11:15:22 18 A. Can you repeat that? I'm sorry.

11:15:24 19 Q. On January 1st of 2017 did you witness  
11:15:27 20 any of these verbal cues for mental health issues  
11:15:31 21 with Mr. Kistner?

11:15:32 22 A. Yes.

11:15:32 23 Q. And which of these verbal cues did you

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11:15:36 1 recognize at that time?

11:15:37 2 A. That I can recall, it was fixation and  
11:15:39 3 repetitive.

11:15:40 4 Q. Any others?

11:15:43 5 A. If I could see the 941 documentation.

11:15:47 6 Q. Sure. Before I show you that document,  
11:15:50 7 did you review any documents for your deposition  
11:15:53 8 testimony today?

11:15:54 9 A. I did.

11:15:54 10 Q. Okay. And what documents did you  
11:15:56 11 review?

11:15:59 12 A. I did review the 941 paperwork, the  
11:16:04 13 arrest forms.

11:16:11 14 Q. Now, when you say arrest forms, what  
11:16:14 15 would those include?

11:16:17 16 A. There was a number of different forms,  
11:16:22 17 it was the 1375, it was the 1 -- P163.

11:16:27 18 Q. Now, what's a P163?

11:16:31 19 A. The arrest form. The 1375 is a crime  
11:16:36 20 report.

11:16:38 21 Q. Okay. Did you review any other  
11:16:43 22 documents?

11:16:43 23 A. Yes, I just don't recall --

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11:16:46 1 Q. Okay.

11:16:46 2 A. -- every single.

11:16:48 3 Q. No, that's okay. Did you review any

11:16:51 4 videos?

11:16:52 5 A. Yes.

11:16:52 6 Q. Okay. What videos did you review?

11:16:55 7 A. I reviewed the video that was provided

11:16:59 8 regarding the incident.

11:17:00 9 Q. Okay. How many video segments were

11:17:00 10 there?

11:17:05 11 A. I don't recall.

11:17:05 12 Q. Okay. Would it have been four?

11:17:08 13 A. I don't recall.

11:17:08 14 Q. Okay. Did you watch each of the videos

11:17:12 15 that was on the disc that was provided to you?

11:17:14 16 A. Yes.

11:17:14 17 Q. Okay. In their entirety?

11:17:16 18 A. Yes.

11:17:17 19 Q. Okay. Was that the first time that you

11:17:21 20 saw those video segments?

11:17:24 21 A. No.

11:17:25 22 Q. Okay. When was the first time that you

11:17:27 23 saw those video segments?

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11:17:27 1 A. When I was served paperwork with  
11:17:28 2 the -- regarding the lawsuit and the disc was  
11:17:31 3 provided.

11:17:33 4 Q. After you were served, did you watch  
11:17:36 5 those videos again?

11:17:37 6 A. Yes.

11:17:38 7 Q. Approximately how many times did you  
11:17:40 8 watch those videos?

11:17:44 9 A. I viewed it the -- when I was served  
11:17:48 10 and then that I can recall twice with Maeve.

11:17:56 11 Q. Sure. And I'm not going to ask what  
11:17:59 12 kinds of discussions that you had with your  
11:18:01 13 attorney, that's between you and her, but thank  
11:18:03 14 you.

11:18:06 15 So prior to your deposition today, when was  
11:18:08 16 the last time that you watched the video?

11:18:11 17 A. Last week, I believe.

11:18:12 18 Q. Okay. And no other times in between  
11:18:15 19 the last time that you watched it and your  
11:18:18 20 deposition today, no segments or anything?

11:18:21 21 A. No.

11:18:21 22 Q. Okay. So I'm going to --

11:18:21 23 MS. HUGGINS: Other than obviously she was

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11:18:24 1 in attendance with -- for Officer McDermott's.

11:18:24 2 THE WITNESS: Right.

11:18:25 3 MS. HUGGINS: Detective McDermott's.

11:18:25 4 MR. DAVENPORT: Sure.

11:18:26 5 MS. HUGGINS: And they were shown during the  
11:18:28 6 course of that deposition.

11:18:29 7 BY MR. DAVENPORT:

11:18:29 8 Q. Sure. So I'm going to show you what's  
11:18:32 9 been marked as Exhibit 6. Do you recognize this  
11:18:37 10 document?

11:18:37 11 A. Yes.

11:18:37 12 Q. And what do you recognize it to be?

11:18:40 13 A. A 941.

11:18:45 14 Q. Okay. Is the date on here January 1st  
11:18:49 15 of 2017?

11:18:49 16 A. Yes.

11:18:49 17 Q. And is the time 4:37 for the time of  
11:18:53 18 transport?

11:18:54 19 A. Yes.

11:18:55 20 Q. Okay. Now, the time of transport, what  
11:19:00 21 would that represent?

11:19:07 22 A. I believe this was the time that he was  
11:19:09 23 brought to ECMC.

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11:19:13 1 Q. Okay.

11:19:14 2 A. To the best of my recollection.

11:19:16 3 Q. Do you know where he was brought to  
11:19:18 4 ECMC from?

11:19:18 5 A. Central booking.

11:19:20 6 Q. And how long approximately were you at  
11:19:23 7 central booking?

11:19:24 8 A. I don't recall.

11:19:24 9 Q. Okay. Do you remember approximately  
11:19:26 10 what time you got to central booking?

11:19:28 11 A. I don't recall.

11:19:29 12 Q. Okay. Did you go straight from central  
11:19:32 13 booking to ECMC?

11:19:33 14 A. Yes.

11:19:34 15 Q. Approximately how long did it take you  
11:19:37 16 to get to ECMC from central booking?

11:19:39 17 A. I don't recall.

11:19:41 18 Q. Have you ever made the drive from  
11:19:43 19 central booking to ECMC, other than this date?

11:19:49 20 A. I don't remember.

11:19:50 21 Q. Okay. Have you ever brought someone in  
11:19:56 22 on a 941 form after they had been brought to  
11:20:00 23 central booking?

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11:20:01 1 MS. HUGGINS: Form. You can answer.

11:20:03 2 THE WITNESS: I don't recall.

11:20:04 3 BY MR. DAVENPORT:

11:20:04 4 Q. Okay. Approximately --

11:20:05 5 A. For this incident we did.

11:20:09 6 Q. Sure. Sure. Approximately how many  
11:20:11 7 times have you used a 941 form before as a police  
11:20:15 8 officer or a lieutenant or a detective?

11:20:17 9 A. Numerous.

11:20:18 10 Q. Okay. Approximately how many times is  
11:20:20 11 numerous?

11:20:22 12 A. I don't want to give a false estimate.  
11:20:26 13 I -- I don't recall.

11:20:26 14 Q. Would it be more than a hundred?

11:20:30 15 A. Possibly.

11:20:30 16 Q. Okay. Would it be more than 50?

11:20:36 17 A. Yes.

11:20:36 18 Q. Okay. So, now, going through this  
11:20:41 19 form, what sort of verbal cues did you indicate on  
11:20:49 20 this form that Mr. Kistner was exhibiting that made  
11:20:53 21 you -- led you to be concerned for his mental  
11:20:56 22 health?

11:20:56 23 A. I checked off refusal to respond to

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11:20:59 1 questions, talking to self, hostile, argumentative,  
11:20:59 2 belligerent, loud yelling, expresses idea of  
11:20:59 3 inflated self-importance, and talks -- oh, I'm  
11:20:59 4 sorry.

11:21:09 5 I put refusal to respond to questions,  
11:21:11 6 talking to self, hostile, argumentative,  
11:21:15 7 belligerent, loud yelling, expresses ideas of  
11:21:19 8 inflated self-importance, and talks repeatedly  
11:21:24 9 about a single subject, death, religion, illness,  
11:21:29 10 government, et cetera.

11:21:30 11 And then in the narrative I put repeatedly  
11:21:36 12 called officers Nazis and fascists.

11:21:39 13 Q. Okay. So, now, is there ever -- is  
11:21:42 14 there a second page to a 941 form?

11:21:46 15 A. No.

11:21:46 16 Q. No. Is there anywhere where you can  
11:21:52 17 add to your narrative besides these two and a half  
11:21:56 18 lines that are given to you?

11:21:57 19 A. Just the justification for transport.

11:22:00 20 Q. Yes, for the just -- justification for  
11:22:04 21 transport, is there anywhere else where you can add  
11:22:06 22 to the narrative besides that section right there?

11:22:09 23 A. What was reported to the police about

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11:22:12 1 the individual.

11:22:12 2 Q. Okay. Now, you chose not to write  
11:22:16 3 anything on that line. Why did you not write  
11:22:20 4 anything on the section what was reported to the  
11:22:22 5 police about this individual?

11:22:24 6 A. I didn't have any information to add to  
11:22:26 7 that.

11:22:26 8 Q. Okay. So he was taken to ECMC,  
11:22:33 9 correct?

11:22:33 10 A. Yes.

11:22:33 11 Q. Okay. Did he use the sort of language  
11:22:38 12 with any of the nurses or physicians that were at  
11:22:44 13 ECMC, Nazis, fascists, any other language that  
11:22:48 14 would -- I'm sorry. That was a poorly phrased  
11:22:49 15 question, strike that.

11:22:50 16 Did Mr. Kistner use any sort of language  
11:22:55 17 with any of the physicians or staff at ECMC that  
11:23:00 18 would lead you to be concerned for his mental  
11:23:03 19 health?

11:23:03 20 MS. HUGGINS: Form. You may answer.

11:23:05 21 THE WITNESS: Yes.

11:23:06 22 BY MR. DAVENPORT:

11:23:06 23 Q. Okay. How did you come to learn about

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11:23:09 1 that language that was used to the physicians or  
11:23:11 2 ECMC staff?

11:23:12 3 A. I was present during his transport  
11:23:16 4 to -- I don't recall if it was -- it was some type  
11:23:20 5 of scan for the transport when he was using the  
11:23:25 6 language.

11:23:27 7 Q. Do you recall, would that have been a  
11:23:30 8 CAT scan of Mr. Kistner?

11:23:31 9 A. I don't recall exactly what type of  
11:23:33 10 scan it was.

11:23:34 11 Q. Okay. Who was that scan done by, was  
11:23:37 12 that ECMC staff?

11:23:38 13 A. Yes.

11:23:38 14 Q. Okay. Now, besides the transport, were  
11:23:44 15 you ever present in the room where Mr. Kistner was  
11:23:48 16 being evaluated?

11:23:49 17 A. No.

11:23:51 18 Q. Okay. Did you talk with any of the  
11:23:53 19 ECMC staff or physicians about what was going on  
11:23:57 20 for that physical examination of Mr. Kistner?

11:24:00 21 A. No.

11:24:01 22 Q. Okay. Besides Mr. Kistner being  
11:24:08 23 transported, did you come to learn about any other

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11:24:11 1 instances or times that Mr. Kistner would have used  
11:24:14 2 any language, any verbal cues with ECMC staff that  
11:24:19 3 would have led you to be concerned about his mental  
11:24:22 4 health?

11:24:22 5 A. Can you repeat that?

11:24:24 6 Q. Sure. Besides Mr. Kistner's transport,  
11:24:29 7 were there any other instances of Mr. Kistner using  
11:24:33 8 any sort of verbal cues that would cause you to be  
11:24:38 9 concerned for his mental health and those verbal  
11:24:42 10 cues being directed towards ECMC staff only, not to  
11:24:45 11 you?

11:24:45 12 MS. HUGGINS: Form. You can answer.

11:24:46 13 THE WITNESS: The most significant that I  
11:24:48 14 can recall at this time was during that transport  
11:24:51 15 through the hospital.

11:24:51 16 BY MR. DAVENPORT:

11:24:52 17 Q. Okay. Now, you say the most  
11:24:54 18 significant, were there any other instances that  
11:24:58 19 you can recall?

11:24:58 20 A. Not that I could recall.

11:24:59 21 Q. Okay. During that first initial visit  
11:25:08 22 to ECMC, did you have any conversations with any of  
11:25:11 23 the physicians or ECMC staff?

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11:25:12 1 A. I did not.

11:25:13 2 Q. Okay. Do you know if any of the  
11:25:15 3 officers had any conversations with any of the ECMC  
11:25:18 4 staff?

11:25:19 5 A. Officer McDermott did.

11:25:20 6 Q. Okay. Do you -- were you present for  
11:25:23 7 those conversations?

11:25:24 8 A. Yes.

11:25:24 9 Q. Okay. Do you recall what was said  
11:25:27 10 between Ms. McDermott and ECMC staff?

11:25:30 11 A. The only conversation I remember that  
11:25:33 12 I -- I heard the doctor say was that he stated that  
11:25:37 13 he fell on ice.

11:25:38 14 Q. Okay.

11:25:40 15 A. That he had slipped and fell on ice.  
11:25:42 16 That's the only thing that I could recall.

11:25:43 17 Q. Would that have been inside of the room  
11:25:46 18 where Mr. Kistner was being evaluated?

11:25:49 19 A. No, I stayed in the hallway.

11:25:49 20 Q. Okay.

11:25:52 21 A. I don't recall if I ever went in his  
11:25:53 22 room when -- when he was being uncuffed to be taken  
11:25:56 23 out, because he was cuffed to the bed, but whenever

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11:25:58 1 he was being evaluated I was in the hallway.

11:26:00 2 Q. Okay. Were you present when

11:26:03 3 Mr. Kistner was uncuffed?

11:26:08 4 A. At what point?

11:26:09 5 Q. Were you part of -- did you actually

11:26:14 6 participate in uncuffing Mr. Kistner from the

11:26:17 7 hospital bed?

11:26:17 8 A. I don't recall.

11:26:18 9 Q. Okay. Do you remember who actually

11:26:21 10 uncuffed Mr. Kistner from the hospital bed?

11:26:23 11 A. I don't recall.

11:26:25 12 Q. Would it have been Officer Schulz or

11:26:32 13 Officer Moriarity?

11:26:33 14 A. When Mr. Kistner was transported from

11:26:37 15 ECMC to central booking, it was just Officer

11:26:42 16 McDermott and myself. Initially when he was

11:26:44 17 brought to ECMC, Officers Schulz and Moriarity were

11:26:51 18 present, so at some point they may have.

11:26:54 19 I'm not certain who had cuffed him to the

11:26:58 20 bed at that point, but I know when he was taken

11:27:00 21 from ECMC to central booking it was just Officer

11:27:02 22 McDermott and myself. So she and I would have been

11:27:03 23 the ones, one of the ones who would have uncuffed

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11:27:06 1 him.

11:27:07 2 Q. Okay. Was he uncuffed at any point  
11:27:10 3 before he was transported from ECMC to central  
11:27:14 4 booking?

11:27:14 5 MS. HUGGINS: Form.

11:27:15 6 THE WITNESS: Could you clarify?

11:27:16 7 BY MR. DAVENPORT:

11:27:17 8 Q. Was Mr. Kistner uncuffed at any point  
11:27:20 9 before you and Ms. McDermott were about to transfer  
11:27:24 10 him to central booking from ECMC?

11:27:27 11 A. He would have -- the cuff would have  
11:27:27 12 been removed from the bed. He had one cuff to the  
11:27:30 13 bed, one arm cuffed. So that would have been  
11:27:30 14 removed so he would have been placed in both of his  
11:27:34 15 hands put into handcuffs, but I don't recall.

11:27:37 16 Q. Was that handcuff ever removed from his  
11:27:41 17 one wrist?

11:27:42 18 MS. HUGGINS: Form.

11:27:49 19 THE WITNESS: I'm not certain. I don't  
11:27:52 20 know. I -- I don't recall.

11:27:52 21 BY MR. DAVENPORT:

11:27:52 22 Q. Okay. At any time were you or  
11:27:56 23 Ms. McDermott or Officer Moriarity or Officer

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11:28:00 1 Schulz, were any of the officers at ECMC requested  
11:28:03 2 by any of the ECMC staff to uncuff Mr. Kistner?

11:28:07 3 A. Not that I could recall.

11:28:09 4 Q. Okay. Approximately how long were you  
11:28:12 5 at ECMC before going to central booking, so during  
11:28:17 6 that first visit?

11:28:18 7 A. I don't recall.

11:28:19 8 Q. Okay. So, now, turning to the 941  
11:28:24 9 form. Refusal to respond to question, that's one  
11:28:28 10 of the boxes that you've checked for verbal and  
11:28:31 11 behavioral cues. What sorts of questions was he  
11:28:36 12 refusing to respond to?

11:28:38 13 A. I don't recall at this time.

11:28:39 14 Q. Okay. I also noticed that there's an O  
11:28:44 15 and an R above those boxes, do you know what O and  
11:28:49 16 are stands for?

11:28:50 17 A. Yeah, observed and reported -- and/or  
11:28:53 18 reported.

11:28:53 19 Q. Okay. So, now, observed would be your  
11:28:56 20 personal observations, correct?

11:28:58 21 A. Correct.

11:28:58 22 Q. And reported would be from a  
11:29:01 23 third-party?

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11:29:01 1 A. Yes.

11:29:02 2 Q. Okay. Now, another box that you have  
11:29:05 3 checked is talking to self. Do you recall  
11:29:09 4 Mr. Kistner talking to himself on January 1st of  
11:29:12 5 2017?

11:29:12 6 A. Yes.

11:29:12 7 Q. What kinds of things was he saying?

11:29:15 8 A. I don't remember the exact -- exactly  
11:29:19 9 what he was saying, but I recall when I was in the  
11:29:24 10 hallway, he was talking to himself while he was in  
11:29:26 11 the hospital bed.

11:29:27 12 Q. Okay. Was the door closed when  
11:29:32 13 Mr. Kistner was being evaluated and you were out in  
11:29:34 14 the hall at ECMC?

11:29:35 15 MS. HUGGINS: Form. You can answer.

11:29:38 16 THE WITNESS: It may have been.

11:29:40 17 BY MR. DAVENPORT:

11:29:41 18 Q. So these would have been words that  
11:29:44 19 Mr. Kistner spoke while he was in the hospital  
11:29:48 20 room, correct?

11:29:48 21 MS. HUGGINS: Form.

11:29:49 22 BY MR. DAVENPORT:

11:29:51 23 Q. That you heard when you were outside

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11:29:52 1 the hospital room?

11:29:53 2 A. These are words that were spoken when  
11:29:58 3 he was in the hospital room and I was in the  
11:30:00 4 hallway, correct.

11:30:00 5 Q. Okay. But you're not sure if the door  
11:30:03 6 was closed or open?

11:30:04 7 A. When he -- when he was in there by  
11:30:05 8 himself, I recall the door being partially open so  
11:30:11 9 we could see him.

11:30:15 10 Q. Now, who partially opened the door, do  
11:30:23 11 you recall?

11:30:23 12 A. I don't.

11:30:27 13 Q. Okay. Was that either you or Officer  
11:30:30 14 McDermott that partially opened the door?

11:30:32 15 A. I don't recall.

11:30:35 16 Q. What kinds of things did you observe  
11:30:37 17 through that partially open door?

11:30:39 18 A. We could see his self, we could see him  
11:30:44 19 laying on the hospital bed.

11:30:46 20 Q. And was it during this time that you  
11:30:49 21 saw Mr. Kistner talking to himself?

11:30:52 22 A. Heard him, that's all.

11:30:54 23 Q. Okay. Was there anybody else in the

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11:30:55 1 room besides Mr. Kistner?

11:30:57 2 A. At that time, no.

11:30:59 3 Q. Was there any ECMC staff that was in  
11:31:02 4 the room?

11:31:02 5 A. When he was talking to himself, not  
11:31:05 6 that I could recall.

11:31:08 7 Q. Approximately -- you can give a  
11:31:10 8 percentage on this, approximately how much of the  
11:31:13 9 time that Mr. Kistner was at ECMC before being  
11:31:17 10 transferred to central booking was he in the room  
11:31:22 11 by himself?

11:31:22 12 MS. HUGGINS: Form. You can answer.

11:31:24 13 THE WITNESS: Can you repeat that?

11:31:26 14 BY MR. DAVENPORT:

11:31:26 15 Q. So how -- how much of the time that  
11:31:28 16 Mr. Kistner spent at ECMC before being transferred  
11:31:31 17 to central booking was he in the hospital room by  
11:31:35 18 himself?

11:31:38 19 A. We were right outside the door, so if  
11:31:41 20 he wasn't being evaluated, that I could recall. I  
11:31:45 21 don't know a specific amount of time.

11:31:48 22 Q. Do you recall approximately how many  
11:31:51 23 individuals -- how many ECMC staff individuals

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11:31:58 1 evaluated Mr. Kistner?

11:32:00 2 A. No.

11:32:01 3 Q. Okay. Would it have been more than  
11:32:03 4 five?

11:32:05 5 MS. HUGGINS: Form. You can answer.

11:32:07 6 THE WITNESS: I don't recall. I remember  
11:32:10 7 one doctor.

11:32:14 8 BY MR. DAVENPORT:

11:32:16 9 Q. So, now, you said that you've done  
11:32:19 10 other 941 forms before. Where do you typically  
11:32:24 11 send individuals who are being evaluated under a  
11:32:28 12 941?

11:32:28 13 A. We always take them to ECMC.

11:32:28 14 Q. Okay.

11:32:33 15 A. To CPEP.

11:32:33 16 Q. Do you typically deal with the same  
11:32:38 17 individuals at ECMC in terms of staff there?

11:32:40 18 A. It varies.

11:32:41 19 Q. Okay. Was there anybody there present  
11:32:45 20 at ECMC that day that you had recognized from a  
11:32:49 21 previous 941?

11:32:51 22 MS. HUGGINS: Form. You can answer.

11:32:54 23 BY MR. DAVENPORT:

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11:32:55 1 Q. Was there anybody there --

11:32:56 2 A. Staff?

11:32:56 3 Q. -- present on January 1st of 2017 that  
11:32:59 4 you recognized from a prior time that you had  
11:33:02 5 brought an individual to ECMC on a 941?

11:33:05 6 A. I don't recall.

11:33:06 7 Q. Okay. Who would you typically deal  
11:33:10 8 with at ECMC for a 941 evaluation?

11:33:14 9 A. For the 941 evaluation we come in  
11:33:18 10 through the emergency room entrance, whether it's a  
11:33:22 11 941 or a regular medical evaluation, we come in the  
11:33:27 12 same way.

11:33:28 13 We stop at the reception window. They're  
11:33:33 14 triaged for their vitals, and then they're  
11:33:34 15 transported over to the CPEP portion of the  
11:33:40 16 hospital.

11:33:40 17 Q. Okay. Do you typically stay with those  
11:33:45 18 individuals after they're brought on a 941, do you  
11:33:49 19 stay at ECMC?

11:33:50 20 A. We stay with them until they're taken  
11:33:55 21 into the secure part of the psychiatric section.

11:33:57 22 Q. And what would that secure part be  
11:34:00 23 called, what is that called?

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11:34:04 1 A. CPEP.

11:34:07 2 Q. Okay. And you mentioned the triage,  
11:34:10 3 what was the triage referring to?

11:34:12 4 A. Just the part -- so you give your  
11:34:13 5 paperwork in and then they sit with a nurse and  
11:34:16 6 their vitals are taken; blood pressure,  
11:34:19 7 temperature.

11:34:20 8 Q. Are there other individuals, other  
11:34:22 9 patients who are in the triage?

11:34:24 10 A. It's a -- it's a room where just that  
11:34:27 11 person is evaluated.

11:34:29 12 Q. And that person is in there by  
11:34:33 13 themselves?

11:34:33 14 A. While they're being evaluated, yes.

11:34:38 15 Q. Okay. Approximately how many --

11:34:38 16 A. With an officer present, there's an  
11:34:40 17 officer for just the vitals for the triage portion.

11:34:41 18 Q. Okay. Do you recall on January 1st of  
11:34:45 19 2017, did you stay with Mr. Kistner in the triage?

11:34:49 20 A. I don't recall if we both did or one of  
11:34:53 21 us did, myself or Officer McDermott. I don't  
11:34:55 22 recall.

11:34:55 23 Q. You and Officer McDermott were

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11:34:57 1 traveling together on that day, correct?

11:34:59 2 A. Yes.

11:34:59 3 Q. And Officer McDermott is here today?

11:35:01 4 A. Yes.

11:35:01 5 Q. Okay. So on that day do you recall

11:35:09 6 leaving the hospital without Officer McDermott?

11:35:13 7 A. No.

11:35:14 8 Q. Do you recall Officer McDermott leaving

11:35:16 9 the hospital without you?

11:35:18 10 A. No.

11:35:19 11 Q. If you weren't in the triage when

11:35:26 12 Mr. Kistner was being evaluated, where else would

11:35:30 13 you have been?

11:35:30 14 A. I could possibly been outside the door

11:35:32 15 using the lavatory. I just -- I don't recall.

11:35:33 16 Q. Do you remember approximately how long

11:35:36 17 Mr. Kistner was in the triage?

11:35:37 18 A. I don't.

11:35:38 19 Q. Okay. Was it more than an hour?

11:35:40 20 A. I don't recall.

11:35:41 21 Q. Okay. When an individual is in the

11:35:44 22 triage, are they evaluated only by nurses or are

11:35:48 23 they also evaluated by a physician?

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11:35:50 1 A. I've only ever seen a nurse.

11:35:53 2 Q. Okay. Now, typically after an  
11:36:01 3 individual is brought to CPEP, do you leave ECMC at  
11:36:06 4 that time?

11:36:06 5 A. Once they're in the secure part of CPEP  
11:36:09 6 then we leave, yes.

11:36:11 7 Q. Okay. Do you remember on that day  
11:36:13 8 after Mr. Kistner was brought to CPEP did you stay  
11:36:19 9 or did you leave after he was brought into CPEP?

11:36:22 10 A. Left.

11:36:22 11 Q. Left. Okay. Do you remember  
11:36:26 12 approximately what time Mr. Kistner was brought to  
11:36:29 13 the triage?

11:36:29 14 A. I do not.

11:36:31 15 Q. Okay. Is an individual who's brought  
11:36:35 16 on a 941 brought straight to the triage, or is  
11:36:40 17 there another place where they are brought before  
11:36:43 18 triage?

11:36:43 19 MS. HUGGINS: Form. You can answer.

11:36:44 20 THE WITNESS: Unless there's a backup,  
11:36:46 21 because occasionally there's a lot of people,  
11:36:48 22 because, like I said, 941s will go through triage  
11:36:53 23 as well as people being medically treated, so if

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11:36:55 1 there's a backup, we may have to wait in the  
11:36:59 2 hallway or another room they put us in until  
11:37:03 3 someone could be seen in the triage.

11:37:05 4 Q. Okay. Do you remember on that day, on  
11:37:10 5 January 1st of 2017, did you have to wait in the  
11:37:11 6 hallway or did you immediately go into the triage?

11:37:14 7 A. I don't recall.

11:37:14 8 Q. Okay. How many times have you gone to  
11:37:18 9 the triage where you had to wait out in the  
11:37:18 10 hallway?

11:37:22 11 A. Numerous.

11:37:22 12 Q. Okay. Besides officers, who else  
11:37:27 13 brings individuals on a 941 or some sort of other  
11:37:32 14 mental health evaluation at CPEP?

11:37:36 15 A. It could also be mental health  
11:37:39 16 professionals.

11:37:39 17 Q. Would that be crisis intervention?

11:37:42 18 A. Crisis services.

11:37:42 19 Q. Okay.

11:37:44 20 A. Yes.

11:37:48 21 Q. On these times where you had to wait  
11:37:51 22 out in the hallway, were they all officers who had  
11:37:56 23 brought the individual in for an evaluation, or

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11:37:59 1 were there also mental health or crisis services  
11:38:04 2 workers who brought individuals in for a mental  
11:38:07 3 health evaluation?

11:38:08 4 MS. HUGGINS: Form. You may answer.

11:38:10 5 THE WITNESS: It's been both and for medical  
11:38:13 6 treatment as well. Like there have been people who  
11:38:17 7 come in on the ambulance who have to wait as well.  
11:38:21 8 It's the County medical center, so sometimes if  
11:38:23 9 it's backed up for people being seen for mental  
11:38:24 10 health issues or for medical.

11:38:27 11 BY MR. DAVENPORT:

11:38:27 12 Q. Okay. So the triage wouldn't just be  
11:38:31 13 for a mental health evaluation?

11:38:34 14 A. Correct.

11:38:34 15 Q. Okay. Now, that first time that  
11:38:40 16 Mr. Kistner was brought to ECMC did he go to a  
11:38:43 17 triage?

11:38:45 18 A. I don't recall.

11:38:46 19 Q. Okay. Where else would he have been  
11:38:50 20 brought for that physical examination?

11:38:52 21 MS. HUGGINS: Form. You can answer.

11:38:54 22 THE WITNESS: Typically we would go through  
11:38:57 23 triage, I just don't recall going through the

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11:38:57 1 triage.

11:39:01 2 BY MR. DAVENPORT:

11:39:01 3 Q. Okay. When you were observing  
11:39:05 4 Mr. Kistner through the partially open door, was he  
11:39:08 5 in a triage room at that time?

11:39:09 6 A. No.

11:39:10 7 Q. Okay. So what room was he in?

11:39:12 8 A. He was in one of the rooms on the  
11:39:14 9 other -- when you go back, I don't know what you  
11:39:17 10 would call the room, it's in the emergency room,  
11:39:20 11 the emergency department.

11:39:22 12 They have some rooms -- they have some  
11:39:24 13 sections with just curtains and then they have  
11:39:27 14 rooms with doors and he had a room with a door and  
11:39:28 15 a window.

11:39:28 16 Q. Okay.

11:39:29 17 A. But it's still in the emergency  
11:39:32 18 section. It's not like a room for someone who's  
11:39:35 19 admitted.

11:39:36 20 Q. Okay. Now, when you were observing  
11:39:41 21 Mr. Kistner through the partially open door, did  
11:39:45 22 you observe any sort of physical evaluations that  
11:39:47 23 were done of Mr. Kistner?

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11:39:48 1 A. No.

11:39:49 2 Q. Okay. Do you know if Mr. Kistner was  
11:39:53 3 evaluated for a head injury while he was at ECMC?

11:39:56 4 A. I don't recall.

11:39:59 5 Q. On the day of the incident do you  
11:40:02 6 recall Mr. Kistner complaining about a head injury?

11:40:05 7 A. I don't recall.

11:40:06 8 Q. Okay. Do you recall Mr. Kistner making  
11:40:09 9 any sorts of complaints on January 1st of 2017,  
11:40:14 10 physical complaints?

11:40:15 11 A. I don't recall anything specific.

11:40:16 12 Q. Okay. Do you remember, do you recall  
11:40:20 13 anything generally anything that he was saying to  
11:40:24 14 police officers about his physical condition?

11:40:25 15 A. No, I don't recall.

11:40:26 16 Q. Okay. Now, you also have checked here  
11:40:31 17 hostile, argumentative, belligerent, loud yelling,  
11:40:35 18 where did you observe these behaviors?

11:40:39 19 A. At the hospital.

11:40:41 20 Q. Did you observe them anywhere else?

11:40:48 21 A. I don't recall if it was on the  
11:40:50 22 transport or not. The hospital is what I recall.

11:40:53 23 Q. Okay. Who was he hostile,

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11:40:59 1 argumentative, belligerent, loud and yelling, who  
11:41:03 2 were those actions directed towards?

11:41:05 3 **MS. HUGGINS:** Form. You can answer.

11:41:06 4 **THE WITNESS:** Again, from what I can recall  
11:41:10 5 during the transport he was just yelling loudly,  
11:41:14 6 using derogatory terms that created a disruption,  
11:41:18 7 people were walking away trying to go in a  
11:41:22 8 different direction.

11:41:23 9 **BY MR. DAVENPORT:**

11:41:23 10 **Q.** Now, when you say the transport, that's  
11:41:24 11 referring to taking Mr. Kistner from his hospital  
11:41:28 12 room to where he was examined for some sort of an  
11:41:31 13 imaging study, correct?

11:41:33 14 **A.** Correct.

11:41:33 15 **Q.** Okay. I just want to make sure that  
11:41:38 16 wasn't during the transport from ECMC to central  
11:41:40 17 booking?

11:41:41 18 **A.** Correct.

11:41:41 19 **Q.** Okay. Now, besides the transport, did  
11:41:45 20 you observe these types of behaviors anywhere else?

11:41:52 21 **A.** To the best of my recollection, the  
11:41:54 22 hospital is what I remember.

11:41:55 23 **Q.** Okay. And when you say the hospital,

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11:41:57 1 was that also in his hospital room that he --

11:42:01 2 A. Some of these observations were from  
11:42:04 3 his hospital room.

11:42:05 4 Q. Okay. And that would have been  
11:42:07 5 something that you observed through the partially  
11:42:09 6 open door?

11:42:10 7 A. Correct.

11:42:10 8 Q. Did he exhibit any of these types of  
11:42:14 9 behaviors at central booking?

11:42:16 10 A. I don't recall.

11:42:17 11 Q. Okay. Did he exhibit any of these  
11:42:19 12 sorts of behaviors at any point when he was in the  
11:42:22 13 car with you and Ms. McDermott?

11:42:24 14 A. I don't recall.

11:42:24 15 Q. Okay. The next box that you have  
11:42:27 16 checked is expresses ideas of inflated  
11:42:31 17 self-importance. Have you ever checked that box  
11:42:35 18 before on a 941 form?

11:42:41 19 A. I don't recall.

11:42:42 20 Q. Okay. Is that a box that you check  
11:42:45 21 often?

11:42:46 22 MS. HUGGINS: Form. You may answer.

11:42:46 23 THE WITNESS: I have checked it, I just -- I

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11:42:49 1 don't recall how many times or anything specific.

11:42:52 2 **BY MR. DAVENPORT:**

11:42:53 3 **Q.** Okay. On January 1st of 2017 what  
11:42:55 4 sorts of verbal or behavioral cues led you to  
11:42:59 5 believe that Mr. Kistner was expressing ideas of  
11:43:03 6 inflated self-importance?

11:43:04 7 **A.** I don't recall specifically.

11:43:06 8 **Q.** Okay. What sorts of actions, verbal or  
11:43:11 9 behavioral cues, would lead you to check a box  
11:43:16 10 expresses ideas of inflated self-importance?

11:43:19 11 **A.** How they're regarding themselves. I  
11:43:22 12 know in -- from what I could recall before someone,  
11:43:25 13 and it wasn't the case with Mr. Kistner, saying  
11:43:30 14 that they believe they're God or -- those would be  
11:43:33 15 examples of self-importance, but I don't recall  
11:43:36 16 exactly what Mr. Kistner had expressed as to why I  
11:43:43 17 checked the box.

11:43:44 18 **Q.** Are there ever any other verbal or  
11:43:47 19 behavioral cues that would lead you to check that  
11:43:50 20 box besides somebody saying that they believe that  
11:43:53 21 they're God or Jesus?

11:43:55 22 **A.** Yes, I -- I just can't recall anything  
11:43:56 23 at this time.

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11:43:56 1 Q. Did Mr. Kistner at any time express  
11:43:59 2 that he believed that he was God or Jesus?

11:44:02 3 A. Not that I can recall.

11:44:03 4 Q. Okay. The next verbal or behavioral  
11:44:09 5 cue that you checked was talks repeatedly about a  
11:44:13 6 single subject. And then in parentheses it's  
11:44:17 7 death, comma, religion, comma, illness, comma,  
11:44:22 8 government, comma, et cetera.

11:44:24 9 Do you recall what that single subject was  
11:44:28 10 that Mr. Kistner repeatedly talked about?

11:44:31 11 A. I believe it was in here I put  
11:44:33 12 repeatedly called officers Nazis and fascists. And  
11:44:36 13 it was hospital staff he referred to as well,  
11:44:41 14 feminazis, excuse my language, but he kept  
11:44:45 15 referring to lily white pussies.

11:44:48 16 I know that I filled out a 710.30 with his  
11:44:51 17 arrest paperwork that I had written -- or I had  
11:44:54 18 documented, because at the time I recalled exactly  
11:44:59 19 what he had said. And when we filled out our  
11:45:01 20 arrest paperwork, I had documented what he had  
11:45:04 21 said.

11:45:07 22 Q. So that et cetera that's at the end,  
11:45:12 23 does that mean that the four topics that are listed

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11:45:16 1 in parentheses are not all-inclusive?

11:45:19 2 A. Correct.

11:45:20 3 Q. Okay. So there could be other subjects  
11:45:23 4 that an individual would talk about that would lead  
11:45:26 5 you to check that box, correct?

11:45:28 6 A. Yes.

11:45:29 7 Q. But would you agree that the derogatory  
11:45:33 8 terms that Mr. Kistner used would not fall within  
11:45:37 9 death, religion, illness, or government?

11:45:39 10 A. Nazi could be part government.

11:45:43 11 Q. Okay. Now, this says talks repeatedly  
11:45:50 12 about a single subject. Could this also -- could  
11:45:56 13 this box encompass talking repeatedly about  
11:46:01 14 anything, does it necessarily have to be a single  
11:46:04 15 subject that this individual is repeatedly talking  
11:46:08 16 about?

11:46:08 17 A. This one specifically says talks  
11:46:09 18 repeatedly about a single subject.

11:46:10 19 Q. Okay. So you would agree that the  
11:46:15 20 derogatory terms that Mr. Kistner used there were  
11:46:19 21 multiple derogatory terms that were used, correct?

11:46:23 22 A. But with this one the -- like I said,  
11:46:26 23 there could be a difference between repetitive and

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11:46:30 1 fixation, but with a single subject, the fixation  
11:46:32 2 on the Nazi feminism with the lily white pussy  
11:46:35 3 seemed repetitive to me at the time, that was my  
11:46:38 4 perception, it was repetitive, single subject, and  
11:46:39 5 same -- relating to the same thing over and over  
11:46:41 6 and over and over.

11:46:44 7 Q. So the single subject that Mr. Kistner  
11:46:48 8 would have been focused on in your own words, what  
11:46:52 9 would that have been?

11:46:53 10 A. The -- again, it's in the 710, I don't  
11:46:56 11 want to misspeak, I documented what was said, but  
11:47:00 12 the fem -- from what I could recall the feminaziism  
11:47:04 13 lily white pussies.

11:47:07 14 Q. So would that be the topic or the  
11:47:10 15 subject that he was focused on was the feminazis  
11:47:15 16 lily white pussy?

11:47:16 17 A. That would be the -- the topic, yes.

11:47:18 18 Q. Okay. Now, I see that another box has  
11:47:38 19 been checked here. Appearance ticket issued and  
11:47:41 20 that box was checked yes, correct?

11:47:43 21 A. Yes.

11:47:44 22 Q. Okay. So would that indicate that an  
11:47:47 23 appearance ticket was issued before the 941 form

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11:47:51 1 was filled out?

11:47:52 2 A. Yes.

11:47:52 3 Q. Okay. And who would that appearance  
11:47:55 4 ticket have been issued to?

11:47:56 5 A. Mr. Kistner.

11:47:58 6 Q. Would you hand Mr. Kistner that  
11:48:01 7 appearance ticket?

11:48:02 8 MS. HUGGINS: Form.

11:48:07 9 THE WITNESS: I don't recall if it was  
11:48:10 10 handed to him, but an appearance ticket is given to  
11:48:16 11 the individual.

11:48:18 12 BY MR. DAVENPORT:

11:48:18 13 Q. Okay. Do you know if Mr. Kistner was  
11:48:24 14 handcuffed at the time that you filled out this 941  
11:48:28 15 form?

11:48:28 16 A. I don't recall.

11:48:29 17 Q. Would this 941 form have been filled  
11:48:33 18 out prior to going to ECMC from central booking?

11:48:36 19 A. It could have been filled out -- yeah,  
11:48:39 20 it would have been filled out -- I'm sorry. Can  
11:48:42 21 you repeat that?

11:48:43 22 Q. Sure. Would this 941 form have been  
11:48:46 23 filled out before arriving at ECMC from central

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11:48:50 1 booking?

11:48:50 2 A. Yes.

11:48:50 3 Q. Okay. Do you recall when Mr. Kistner  
11:48:52 4 was transported from central booking to ECMC, was  
11:48:56 5 he handcuffed at the time?

11:48:57 6 A. I just want to make sure, this -- this  
11:48:59 7 would have been filled out before we got to ECMC is  
11:49:03 8 what you were asking, correct?

11:49:03 9 Q. Yes.

11:49:04 10 A. Yes.

11:49:04 11 Q. Okay. So now my -- my second question  
11:49:07 12 was, would Mr. Kistner have been handcuffed at the  
11:49:12 13 time that he was transported from central booking  
11:49:12 14 to ECMC?

11:49:13 15 A. Yes.

11:49:13 16 Q. Okay. If an individual is handcuffed,  
11:49:17 17 how are they issued their appearance ticket?

11:49:20 18 A. At the time --

11:49:20 19 MS. HUGGINS: Form. You can answer.

11:49:21 20 THE WITNESS: -- they're issued their  
11:49:23 21 appearance ticket while at central booking and it's  
11:49:26 22 secured, so they have to sign it, I believe.

11:49:28 23 So they would be uncuffed to sign for their

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11:49:32 1 paperwork, unless for some safety issue they may  
11:49:35 2 not be and then that would be -- if they weren't  
11:49:35 3 safe to be un-handcuffed, it would be documented,  
11:49:38 4 it would be indicated that they for whatever reason  
11:49:42 5 they could not be un-handcuffed to sign at the  
11:49:45 6 time.

11:49:45 7 BY MR. DAVENPORT:

11:49:45 8 Q. Okay.

11:49:46 9 A. But I -- I haven't seen that happen.

11:49:47 10 Q. Okay. Now, after the individual signs  
11:49:49 11 the appearance ticket, is the appearance ticket  
11:49:54 12 kept by the officers or is the appearance ticket  
11:49:58 13 given to someone else? Where does the appearance  
11:50:01 14 ticket -- I'm sorry, strike that.

11:50:02 15 After the appearance ticket is signed by the  
11:50:05 16 individual who was previously in handcuffs, is that  
11:50:08 17 individual put back into handcuffs?

11:50:13 18 A. If they're going to remain in our  
11:50:15 19 custody, yes. Otherwise, if they're going to be  
11:50:19 20 released, then we would walk them out.

11:50:21 21 Q. If you were taking an individual back  
11:50:24 22 to ECMC for a 941 evaluation, would they still be  
11:50:28 23 in the custody of the police at that time?

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11:50:29 1 A. Yes.

11:50:30 2 Q. So would that individual still be in  
11:50:33 3 handcuffs then at that time?

11:50:34 4 A. Yes.

11:50:35 5 Q. Okay. So an individual who is in  
11:50:41 6 handcuffs and on his way to ECMC for a 941 form,  
11:50:45 7 where does the appearances ticket -- who -- what do  
11:50:47 8 you do with the appearance ticket after it's  
11:50:49 9 signed?

11:50:49 10 A. Like I said, usually we would give it  
11:50:52 11 to the person. I've had instances at times where  
11:50:54 12 someone was handcuffed we'll take it until their  
11:50:57 13 next destination and then we -- we can give them  
11:51:00 14 their paperwork when they get there.

11:51:02 15 Q. Okay.

11:51:03 16 A. I don't recall in Mr. Kistner's  
11:51:06 17 instance.

11:51:06 18 Q. Sure. So if that individual was being  
11:51:09 19 taken to the triage at ECMC and that individual is  
11:51:15 20 still in handcuffs at the triage, who would you  
11:51:20 21 give that appearance ticket to?

11:51:21 22 MS. HUGGINS: Form.

11:51:23 23 THE WITNESS: In triage?

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11:51:24 1 BY MR. DAVENPORT:

11:51:24 2 Q. If the -- if the individual is in  
11:51:27 3 triage in handcuffs, who would you give the  
11:51:30 4 appearance ticket to?

11:51:31 5 A. The individual may be in possession of  
11:51:34 6 their appearance ticket, because it's a piece of  
11:51:37 7 paper. Or we wouldn't give it to anyone in triage.

11:51:40 8 Q. Okay. So you wouldn't give it to ECMC  
11:51:42 9 staff?

11:51:43 10 A. Not in triage.

11:51:44 11 Q. Okay. Would you give it to any ECMC  
11:51:46 12 staff?

11:51:46 13 A. If he was turned over to CPEP and we  
11:51:50 14 still had -- we were in possession of any of his  
11:51:52 15 property, we would give it to CPEP, whoever it was  
11:51:54 16 who took him into that secure portion of -- of  
11:51:56 17 their part of the hospital, we would give it to  
11:51:59 18 that person.

11:51:59 19 We would give any property that we had  
11:52:02 20 turned over that we were still in custody of, we  
11:52:05 21 would give it to the CPEP staff when they took  
11:52:08 22 Mr. Kistner into the secure part of their section.

11:52:10 23 Q. Would you have to fill out any sort of

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11:52:12 1 a form for what sort of property was turned over  
11:52:15 2 for that individual that was admitted to CPEP?

11:52:18 3 A. No.

11:52:19 4 Q. Okay. Do you recall if any property  
11:52:24 5 was given to the individual at ECMC that belonged  
11:52:28 6 to Mr. Kistner before he was admitted to CPEP?

11:52:31 7 A. I don't recall.

11:52:37 8 MR. DAVENPORT: Okay. You guys want to take  
11:52:39 9 a quick five-minute break?

11:52:41 10 MS. HUGGINS: Yeah, that's fine.

11:52:41 11 MR. DAVENPORT: Okay.

11:52:41 12 (Discussion off the record at  
11:52:41 13 1152.)

12:03:42 14 (On the record at 1203.)

12:03:42 15 BY MR. DAVENPORT:

12:03:47 16 Q. Now, Ms. Velez, turning your attention  
12:03:51 17 again to Exhibit 6. Now, on this 941 form it says,  
12:03:57 18 is the responding officer CIT trained; do you see  
12:04:00 19 where that is?

12:04:01 20 A. Yes.

12:04:01 21 Q. Why did you not check that box?

12:04:04 22 A. I was not CIT trained at that time.

12:04:07 23 Q. Okay. Was Officer McDermott CIT

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12:04:12 1 trained at that time?

12:04:12 2 A. I don't know.

12:04:13 3 Q. Okay. What do you have to -- what sort  
12:04:16 4 of training do you have to go through to become CIT  
12:04:22 5 trained?

12:04:22 6 A. Well, at this time when this box was  
12:04:25 7 available, I wasn't -- I don't know, but now that I  
12:04:27 8 am trained in a specifically titled class, CIT, I  
12:04:31 9 know that you have to complete the 32 hours and  
12:04:33 10 then you do a ride-along an additional eight hours.

12:04:37 11 I believe it's an additional eight hours,  
12:04:37 12 I'm not -- I'm not -- excuse me, I'm not certain if  
12:04:40 13 it's included in the 32 hours, but we do the  
12:04:40 14 classroom time and then we do a ride-along with  
12:04:43 15 crisis services. So I know that is CIT trained.

12:04:48 16 Q. Okay. Is it as of 2019 that you are  
12:04:53 17 now CIT trained?

12:04:53 18 A. Yes.

12:04:53 19 Q. Now, the next box says, does individual  
12:04:56 20 have active CIT crisis plan; do you see where that  
12:04:58 21 is?

12:04:58 22 A. Yes.

12:04:59 23 Q. And that box is also not checked?

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12:05:01 1 A. Yes.

12:05:01 2 Q. Have you ever checked that box before?

12:05:03 3 A. No.

12:05:04 4 Q. Okay. What -- what sorts of -- strike  
12:05:08 5 that.

12:05:08 6 What would a CIT crisis plan be?

12:05:13 7 A. I'm not trained on a CIT crisis plan,  
12:05:18 8 so I would have to ask either crisis services about  
12:05:21 9 that individual if there is a plan in place, but I  
12:05:25 10 have never checked that box.

12:05:26 11 Q. Okay. Is a CIT crisis plan required  
12:05:34 12 before an individual goes to CPEP?

12:05:38 13 A. Not that I'm aware of.

12:05:40 14 Q. Is a CIT crisis plan required after an  
12:05:48 15 individual leaves CPEP?

12:05:49 16 A. I wouldn't know.

12:05:50 17 Q. Okay. That's not part of the crisis  
12:05:52 18 intervention training that you received in 2019?

12:05:52 19 A. No, not for the what happens in the  
12:05:54 20 CPEP evaluation, no.

12:05:56 21 Q. Okay. Now, turning again to the verbal  
12:06:04 22 and behavioral cue talking to self. Now, did you  
12:06:10 23 say that that was based on observations while

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12:06:14 1 Mr. Kistner was in his room at ECMC?

12:06:16 2 A. That I could recall, yes.

12:06:18 3 Q. Okay. Do you know if Mr. Kistner was  
12:06:21 4 given any sort of a call button at ECMC?

12:06:26 5 A. I -- I know typically beds are equipped  
12:06:29 6 with them, but I don't know that he used one.

12:06:33 7 Q. Okay. Is it possible that Mr. Kistner  
12:06:38 8 would have been speaking into the call button at  
12:06:43 9 his bed at ECMC?

12:06:43 10 A. It's possible that he did. I'm not  
12:06:47 11 certain.

12:06:47 12 Q. Okay. Did you ever specifically see  
12:06:50 13 Mr. Kistner talking to himself where you were sure  
12:06:55 14 that he wasn't speaking into the call button?

12:06:58 15 A. Yes.

12:06:58 16 Q. Okay. Can you describe that?

12:06:59 17 A. He was laying in his bed laying  
12:07:03 18 straight talking out loud.

12:07:04 19 Q. And it's impossible that he could have  
12:07:08 20 been pressing the call button at the same time?

12:07:11 21 A. He may have been. He appeared to me at  
12:07:15 22 the time to be talking to himself.

12:07:16 23 Q. Okay.

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12:07:16 1 A. Okay.

12:07:16 2 Q. But you don't know if he was or wasn't  
12:07:19 3 pressing the call button at that time?

12:07:22 4 A. Correct, I don't recall.

12:07:23 5 Q. Okay. Now, you say in your statement  
12:07:25 6 for justification for transport that the subject  
12:07:28 7 did intentionally throw himself at the patrol  
12:07:31 8 vehicle. Was that what you believed based on what  
12:07:37 9 you personally saw that day on January 1st of 2017?

12:07:40 10 A. I did not personally see that.

12:07:42 11 Q. Okay. Did somebody tell you that  
12:07:46 12 Mr. Kistner threw himself at a police vehicle?

12:07:48 13 A. Yes.

12:07:49 14 Q. And who told you that Mr. Kistner threw  
12:07:53 15 himself at a patrol vehicle?

12:07:55 16 A. Officer McDermott and Officer Schulz.

12:07:57 17 Q. Okay. Now, you also have checked, and  
12:08:06 18 I'm -- I apologize that there's a hole punch that's  
12:08:11 19 through it, there's a check and it looks like it  
12:08:15 20 says places self in dangerous situations; do you  
12:08:18 21 see where that is?

12:08:18 22 A. Yes.

12:08:19 23 Q. Now, would that have been based off of

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12:08:23 1 your personal observations?

12:08:26 2           **A.**     This was what was told to me by two  
12:08:31 3 separate officers.

12:08:32 4           **Q.**     Okay. But that wasn't based on what  
12:08:35 5 you personally observed, correct?

12:08:37 6           **A.**     Correct.

12:08:43 7           **Q.**     Now, based off of what you have now  
12:08:48 8 seen on the video, do you still believe that  
12:08:52 9 Mr. Kistner threw himself intentionally at the  
12:08:56 10 patrol vehicle?

12:08:56 11           **MS. HUGGINS:** Form. You may answer.

12:08:58 12           **THE WITNESS:** Can you repeat that? I'm  
12:08:58 13 sorry.

12:08:58 14           **BY MR. DAVENPORT:**

12:09:01 15           **Q.**     Based on what you saw from the video  
12:09:03 16 surveillance that you watched last week, as  
12:09:03 17 recently as last week, do you still believe that  
12:09:07 18 Mr. Kistner intentionally threw himself at the  
12:09:10 19 police vehicle?

12:09:11 20           **MS. HUGGINS:** Form. You may answer.

12:09:12 21           **THE WITNESS:** The perspective of the video  
12:09:16 22 and my perspective are different. I was told  
12:09:22 23 what -- what had happened. And based on what I see

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12:09:26 1 in the video it does appear that way.

12:09:29 2 BY MR. DAVENPORT:

12:09:30 3 Q. It appears that Mr. Kistner threw  
12:09:34 4 himself intentionally at the police vehicle?

12:09:37 5 A. From my perspective of what I see in  
12:09:37 6 the video, yes.

12:09:38 7 Q. Okay. So that's based on what you saw  
12:09:40 8 in the video, then, correct?

12:09:40 9 A. From what I -- like I said, I had seen  
12:09:44 10 the video after what was told me, so based on what  
12:09:47 11 was told to me and what I see in the video  
12:09:51 12 I -- that's still my -- my perspective of what I  
12:09:54 13 see in the video.

12:09:54 14 Q. Okay. Excluding what was told to you,  
12:09:58 15 based solely on what you see in the video, do you  
12:10:01 16 believe that Mr. Kistner intentionally threw  
12:10:04 17 himself at the police vehicle?

12:10:05 18 MS. HUGGINS: Form.

12:10:07 19 THE WITNESS: May I answer?

12:10:08 20 MS. HUGGINS: Yes, you may answer, sorry.

12:10:11 21 THE WITNESS: Yes.

12:10:11 22 BY MR. DAVENPORT:

12:10:12 23 Q. Okay. I just want to make sure.

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12:10:15 1 Do you see at the bottom where it says  
12:10:17 2 police prints in parentheses and then next to it it  
12:10:20 3 says J. Velez?

12:10:22 4 A. Yes.

12:10:22 5 Q. Is that your signature?

12:10:24 6 A. Yes, that's my name.

12:10:26 7 Q. Okay. Do you know if that statement is  
12:10:30 8 made under penalties of perjury?

12:10:35 9 A. What statement?

12:10:37 10 Q. Your signature at the bottom, the  
12:10:41 11 information that you give on this 941 form, do you  
12:10:44 12 know if that is made under the penalties of  
12:10:47 13 perjury?

12:10:48 14 MS. HUGGINS: Form. You may answer.

12:10:50 15 THE WITNESS: I do not know if it's made  
12:10:53 16 under penalty of perjury.

12:10:55 17 BY MR. DAVENPORT:

12:10:56 18 Q. Okay. Is that anywhere in the CIT  
12:10:58 19 crisis training that you received, whether  
12:11:00 20 the -- the information that you give on this form  
12:11:02 21 is under the penalties of perjury?

12:11:04 22 A. I don't recall.

12:11:05 23 Q. Okay. What about any other classes

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12:11:09 1 that you took or any other training courses that  
12:11:13 2 you received from the Buffalo Police Academy, did  
12:11:15 3 they ever tell you if the information that you give  
12:11:18 4 on a 941 form is given under the penalties of  
12:11:22 5 perjury?

12:11:22 6 MS. HUGGINS: Form. You may answer.

12:11:24 7 THE WITNESS: Not that I could recall.

12:11:25 8 MR. DAVENPORT: Okay. Can you please mark  
12:11:46 9 this as Exhibit 25.

12:11:46 10 The following was marked for Identification:

11 EXH. 25 Dispatch Monitor Unit  
12 History Report

12:12:25 13 BY MR. DAVENPORT:

12:12:26 14 Q. Thank you. Now, I'm showing you,  
12:12:28 15 Ms. Velez, what's been marked as Exhibit 25. Do  
12:12:31 16 you recognize this document?

12:12:34 17 A. Yes.

12:12:34 18 Q. And what do you recognize it to be?

12:12:37 19 A. It's a call log.

12:12:38 20 Q. Okay. Is there another term that's  
12:12:41 21 used for it?

12:12:42 22 A. Dispatch monitor unit history report.

12:12:46 23 Q. Okay. What's the date for this

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12:12:48 1 dispatch monitor?

12:12:49 2 A. 1/1 of 2017.

12:12:51 3 Q. Okay. And which officer does this  
12:12:55 4 dispatch monitor correspond with?

12:12:57 5 A. Myself.

12:12:58 6 Q. Okay. And is that your unit sign C242?

12:13:05 7 A. For that specific date, yes, it was.

12:13:07 8 Q. Okay. Was that typically what your  
12:13:10 9 call sign would be?

12:13:11 10 A. No.

12:13:11 11 Q. What was typically your call sign at  
12:13:15 12 that time?

12:13:15 13 A. C233.

12:13:18 14 Q. Now, why did you have C242 instead of  
12:13:22 15 C233 that day?

12:13:24 16 A. Because it was our double-up day where  
12:13:27 17 both like I explained earlier, the A wheel and the  
12:13:28 18 B wheel, every two weeks there's a day where both  
12:13:33 19 wheels work.

12:13:33 20 So the purpose is so the other side can get  
12:13:36 21 training, so we alternate every other week so we  
12:13:38 22 can get training, but this specific date was a  
12:13:40 23 holiday. There were a number of officers off, so

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